DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

19 November 1991

Tuesday, 19 November 1991

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

PETITIONS

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

Parkway Proposals

To the Honourable Speaker and members of the House of Assembly in the Australian Capital Territory.

The petition of the undersigned citizens of Australia respectfully shows that:

The construction of the Monash and John Dedman East and West Parkways proposed by the National Capital Planning Authority to link with the new township of Gungahlin will cause gross and unnecessary destruction of prime bushland and encourage more use of private cars. While Australia is committed to a reduction in greenhouse gas emissions and protection of natural resources, planning for increased motor transport at the expense of the natural environment is retrograde and irresponsible.

Your petitioners humbly pray that the House of Assembly reject these destructive parkway proposals and undertake a comprehensive public transport plan linking Gungahlin with other town centres to provide a viable alternative to motor transport dominance in the National Capital.

By **Mr Wood** (from 173 residents).

Canberra Bowling Club

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

The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly the approval by the ACT

Executive of a variation to the Territory Plan to permit a residential development on the site of the Canberra Bowling Club at Block 1 Section 12, Hobart Avenue, Forrest.
Your petitioners therefore request the Assembly to disallow the variation as approved by the ACT Executive.

By **Mr Collaery** (from 780 residents).

Payroll Tax

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

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

that the provisions of the Payroll Tax Act 1987 differ from those in New South Wales in so far as they relate to the deeming of contractors to be employees.

Your petitioners therefore request the Assembly to:

amend the Payroll Tax Act 1987 so that contracts where work is carried out by formal partnerships or companies where two or more persons perform the actual work under the contract are exempted from the provisions of the Payroll Tax Act.

By **Ms Follett** (from 380 residents).

Petitions received.

PAPER

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services): I seek leave to present a petition which does not conform with standing orders, as it is addressed to me.

Leave granted.

MR CONNOLLY: I present an out-of-order petition from 874 residents of the ACT requesting me to look immediately at the lack of plastic recycling facilities in this Territory.

QUESTIONS WITHOUT NOTICE

Kingston Foreshore Redevelopment

MR STEVENSON: My question is to Mr Wood. In answer to my question on notice on 10 October on the development of the Kingston foreshore area, Mr Wood said that he did not believe that precipitate action in relation to the redevelopment of the foreshore area was appropriate or necessary. I ask Mr Wood whether he is aware that on ABC radio on 21 October 1991 Mr Brian Howe made a statement that there was a crisis in this country, that unemployment was skyrocketing, and that he wished to hear from unions and ALP branches about sustainable developments. Surely the Kingston foreshore is one such development. On 22 November this year at the Premiers Conference, Brian Howe again wanted to hear about sustainable developments for the better cities program. He said that he was funding research for such a program. Has Mr Wood presented the case for the Kingston foreshores to the Federal Minister?

MR WOOD: I have not presented to Mr Howe a case concerning Kingston foreshores. The Government has presented to Mr Howe, under the better cities program, a case on a range of projects. The first priority amongst those projects is the redevelopment of government flats in the Dickson area. That is important and has many benefits. In contrast to the proposal I have seen, it is practical, useful, realistic, sensible - all those terms - and is not pie in the sky, as the Kingston foreshore proposal I have seen appears to be.

Job Creation Programs

MR KAINE: I address to the Chief Minister a question which also, incidentally, has to do with employment. Can the Chief Minister outline to the Assembly any of the current government programs for the purpose of creating jobs in the ACT? How much money has been specifically allocated for this purpose and how many jobs have actually been created in Canberra so far, particularly for young people?

MS FOLLETT: I thank Mr Kaine for the question. I think most members will be aware that the current budget for the ACT - the Appropriation Bill is still before the Assembly and is still to be debated - contains a number of measures that could be viewed as creating jobs. Perhaps the most significant of those are the new policy initiatives we have taken which allocate a considerable sum of money to youth unemployment. We have done that in a variety of ways - in particular, and I am sure Mr Kaine is aware of these details, by doubling the youth traineeships within the ACT Government Service, by creating additional places at the TAFE, and by increasing substantially the funding to a number of non-government organisations who are concerned with unemployment and with assisting unemployed people to find useful work.

We have allocated a considerable amount of money to those unemployment initiatives at a time when, as I am sure Mr Kaine appreciates, the budget is very tight. Quite clearly, the issue of youth unemployment and of assisting women who wish to return to the paid work force is one that has been taken into account in the current budget, and I am sure members in their debate on the Appropriation Bill will pay full tribute to that.

We have also allocated in the budget a significant amount of money to new construction programs and new capital works, and that is a significant step in creating employment in the Territory in the construction arena. Mr Kaine would be aware of that because his committee has reported upon that program. I think our new capital works program stands in stark contrast to what some States have been able to achieve in that area. The most notable of those is New South Wales, under a Liberal Government, whose new capital works program contained precisely nothing.

In terms of creating employment through government construction activity, I believe that we have made a very creditable effort in the ACT, and I am very pleased that we were able to do that. Part of that effort, of course, was to double the public housing numbers over the numbers Mr Kaine was able to achieve while he was in government. That again addresses both the issue of employment in the construction industry and the housing needs of our community.

I am also aware, and I am sure Mr Kaine is, that employment is one of the issues that we will be addressing at the meeting of heads of State governments in Adelaide later this week. I expect that some useful initiatives and useful debate will come out of that meeting. Furthermore, I have written to the Prime Minister on a couple of occasions in regard to some major projects in the ACT on which only the Federal Government can make progress at this point. Those projects include the National Museum of Australia, the old Parliament House, whose refurbishment I believe is becoming an urgent matter, and other issues such as the proposed freight distribution centre from Canberra Airport, the future of the very fast train, and so on.

We have taken a great many reasonable steps to maintain employment levels in the ACT and to address the level of unemployment. As I am sure Mr Kaine is aware, the ACT continues to have the lowest overall rate of unemployment in Australia. It is my intention to protect that position and to improve upon it. Of course, we have a particular problem in the area of youth unemployment, where our level is currently around 17 per cent - still somewhat below the national average, but a very worrying level. I trust that the measures we have taken through the budget in particular and through the other initiatives I have outlined will help to alleviate that situation.

MR KAINE: I ask a supplementary question, Mr Speaker. Given the non-answer to the question, perhaps I could remind the Chief Minister of some of her budget initiatives. The works program is at a lower level than it has been in previous years and creates no jobs; in fact, it results in fewer jobs. Some of the initiatives are 60 full-time places in associate diploma courses at the TAFE and the re-establishment of the enrolled nurses training program. Given your comment to Mr Howe recently that creating places in TAFE does not create jobs, how can you now say that your budget is creating jobs? Secondly, how is it that youth unemployment is still rising, despite all the things you claim you are doing?

MS FOLLETT: Mr Speaker, I think I have addressed Mr Kaine's question. There is no doubt in my mind that addressing the issue of youth unemployment involves both employment and training and the way we were able to create some extra positions in the TAFE system. I do not think Mr Kaine should be running that down. At the end of the day, as Mr Kaine in his delightful way is trying to point out, we have to have jobs for those trained young people to go into. It is that end of the employment spectrum that I believe we have addressed through the capital works program and through the other initiatives I have outlined.

I am not saying that we have totally resolved this situation. Unemployment is a very major problem, and it is one that requires a great deal of energy and a great deal of innovation. The steps I have taken are helpful; but I am looking forward to being able to take further steps, and the meeting of heads of government in Adelaide should be significant in advancing that.

Payroll Tax

MR COLLAERY: My question is directed to the Chief Minister. In view of the petition she has just presented in relation to payroll tax, is her Government capable of sufficiently imaginative thought to respond to the many statements from the building and construction industry, the Housing Industry Association and other employers and subcontractors, and accept that her Government should examine the prospect of allowing reform of the payroll tax system commensurate, dollar for dollar, with apprenticeship and youth employment schemes? I have a supplementary question, but I will wait for the Chief Minister's response.

MS FOLLETT: I thank Mr Collaery for the question. It allows me to point out yet again that the amendments to the Payroll Tax Act which are the subject of current debate were in fact amendments made in 1989. Mr Collaery and his colleagues opposite had a full 18 months in government in which to address these problems, and they did not.

Mr Kaine: Yes, we did.

MS FOLLETT: Mr Kaine suggests that he did address them. I do not think we are seeing the results of that. The fact is that the concerns that are now being expressed could have been expressed at any point during the Alliance's term of government. I find it strange that Alliance members are now raising these issues as though they knew nothing about them. They did have 18 months to address them.

Nevertheless, the question Mr Collaery has raised of apprenticeship schemes particularly is one that concerns me and one upon which I have had discussions with various representatives of the housing industry. I will be giving consideration to ways in which we can alleviate any disadvantage to people under different sorts of apprenticeship schemes, if I can put it that way. It is my intention that anybody in an apprenticeship scheme or anybody taking on an apprentice should not be disadvantaged simply because of the scheme that apprentice is under. I am examining that issue.

MR COLLAERY: As a supplementary question: In view of your predicted response, Chief Minister, that you will look only at the apprenticeship side of the equation - - -

Ms Follett: That is all you asked me about.

MR COLLAERY: I talked about youth unemployment. In view of the fact that youth unemployment has sustained itself at close to 20 per cent for the last two years and that clearly urgent and reformist measures are available, will you commit your Government to examining whether we can now re-examine the payroll tax issue that this Assembly looked at in 1989 with a view to determining whether, on a dollar for dollar basis, we are not better off asking those employers to put a proportion into youth and trainee employment to relieve the budget of our other direct costs of sustaining youth unemployment?

MS FOLLETT: The gist of Mr Collaery's question really escapes me. Perhaps I had better take that last part of it on notice. I think I have addressed the first part of his question. If I may take it on notice, I will get back to him on it.

Draft Territory Plan

MR MOORE: My question is to Mr Wood as Minister for Planning, and I gave him some hours' notice. There has been a considerable amount of community concern surrounding the very short time constituents have to respond to the draft Territory Plan, particularly since it is over 700 pages, including the written statement and the planning report. What are you planning to do to ensure that

concerned constituents have a chance to respond properly to the draft Territory Plan? Secondly, do you intend to let down the Assembly rugby side next year by not playing, so that we miss out on those other six points?

MR WOOD: To answer the second part of the question first, I did not let down the rugby side; by not playing I think I helped them considerably. Members may know that my heart is with another code. But the real reason I was not able to participate is that I was out of town.

As to the other question, Mr Moore did give me some notice - and I might say that quite a few community groups have given me notice. For example, I spoke to the Conservation Council this morning; it was the second meeting in recent times when they have asked that question. My colleagues have been receiving the same request from quite a range of people and groups in the community. We discussed it this morning at our party meeting and agreed that I should talk to the Territory Chief Planner about it. Bear in mind that he is a statutory officer, it is his draft plan, and he has the carriage of this. During the day I have discussed it with him; he has also had this same sort of input, and he has indicated that it would be sensible if the consultation stage were extended to 20 March. So, that is the date that people should take note of.

I should draw attention to the fact that the round of seminars and workshops on the draft plan will continue in the pre-Christmas period. Given the budgeting that has been allowed for the plan, it is not possible to run those seminars after Christmas, so we are still on the timetable to do that in the next few weeks. The community can still comment. Those groups that put a lot of work into this have time to prepare the very comprehensive and good reports and responses that I know they will make.

MR MOORE: I ask a supplementary question, Mr Speaker. Mr Wood raised the issue of budgeting with reference to the public consultation process. I ask: Were consultants employed for that consultation? In fact, was it the firm Turnbull Fox Phillips? What was the cost of that public consultation? Does the department you run not already have facilities that are used to facilitate such public consultation?

MR WOOD: Certainly, the department has those facilities; but it is also a department that needs to respond to peak periods. When variations go out - for example, the school variations the former Government put out - consultants are employed. There are times when there is a great amount of work to be done over a short period, and that could well be the case on this occasion. I said before that the Territory Chief Planner is a statutory officer. I do not have the information about those consultants, but I will get back to Mr Moore with that detail.

HomeBuyer Scheme

MRS NOLAN: My question is to Mr Connolly in his capacity as Minister for Housing. I refer him to the ACT Housing Trust's HomeBuyer scheme. The brochure promoting that scheme states:

> Your loan repayments are set at 27 per cent of your household's gross income.

Yet the contract, in very small print, says that the percentage is at the discretion of the commissioner. Will the Minister address this issue and ensure that trust clients are not misled when participating or seeking to participate in that scheme?

MR CONNOLLY: Yes, I certainly will have a look at that. The clear policy is that maximum repayments will be locked into income, and I would be concerned if there were an outer clause in the contract which would apparently allow a discretion to be exercised. I guess the political reality is that any government that so exercised that discretion would have to answer to the people and would not stick around for very long. However, Mrs Nolan raises a sensible point which I will address, and I will advise her of the detail when I have looked more closely at it.

Narellan House

MR HUMPHRIES: My question is to the Minister for Education. I refer to concerns about the future of TAFE's Narellan House, which is student accommodation for TAFE students in the ACT. Has the Minister yet responded to the concerns that have been raised with him by the ACT Institute of TAFE Students Association? In particular, can the Minister ensure that adequate notice is given to students before any demolition of Narellan House occurs? Can he guarantee to the Assembly the continuation of student accommodation for TAFE students at present levels?

MR WOOD: This matter has taken up my consideration for some time. I recall that late last year there was a proposal by the former Government to close Narellan House. The one comment I made about it, apart from saying that it was not a very safe place, was that ample notice should be given to the students. I can assure you that ample notice will be given to the students, should any change occur. We all know the condition of Narellan House.

As to the student accommodation, obviously we have a commitment to provide student accommodation and we will do that. It may be that that student accommodation will not be on that present site or there may be only a part of the accommodation provided on the site. There is no

determination as yet. This is a matter the Government is continuing to consider in relation to the future of that site. It may be that there will be some measure of accommodation there; it may be that it will be elsewhere.

Mr Humphries: The same number of beds?

MR WOOD: I can see that I am going to have to maintain a very close watch on bed capacity now. I must see that it does not slip. I will provide Mr Humphries with some more detail on that when the Government has made its decision.

Calwell Primary School - Traffic Arrangements

MR JENSEN: I did have a question for Mr Wood, but I think my question to Mr Connolly in his capacity as Minister for Urban Services probably has a higher priority. I am sure the Minister is aware of mounting concern about the safety of children going to and from the Calwell Primary School. In view of the fact that a child was struck by a car near the school on Downard Street yesterday - fortunately, no serious injury was caused - can the Minister advise what action will now be taken to resolve the traffic problems in the vicinity of the school, or will it require a tragedy before action is taken to resolve this longstanding problem?

MR CONNOLLY: I was certainly disturbed to hear an initial report that there had been an incident in which a child was struck by a car near that school and relieved to hear that no serious injury had been caused. I have asked the officer in charge of the road safety area of the Department of Urban Services to give me an urgent report on the circumstances surrounding that incident and any remedial action that may or may not be able to be taken.

I have just been handed a note which is a preliminary response to that request. I am told that yesterday a five-year-old girl stepped from behind a truck and was hit in the head by the side mirror of a passing car. The child was dazed but fortunately not seriously injured. The incident occurred in the 40-kilometre zone, that is, the school crossing zone. We understand that the child did not cross where she should have if she was to cross the road in the painted area, taking instead the direct route across the road to get to her mother - which I suppose is an understandable thing for a small child to do.

Last Thursday - before this incident - a meeting took place between the Department of Urban Services and the school principal and, as a result of that meeting, a concrete island will be constructed for the first term of 1992. I stress again that the meeting took place and that decision occurred before this incident. The reason a concrete

island did not go in originally is that it would cause difficulty with buses turning into Downard Street, which the school faces. So, there was originally a decision not to do that; as a result of discussions last week the island will proceed.

I expect in due course a more formal response on this incident, which I will pass on to Mr Jensen; but action has been taken.

Members' Staff

MR MOORE: Mr Speaker, my question is to you. Will members' staff continue to work and be paid for that work in the ACT Legislative Assembly for the time it takes to count votes after the 15 February election, bearing in mind that that could well be eight weeks? This is another one of the questions on which I have provided some notice.

MR SPEAKER: This topic has been of interest to all of us for some time. I initiated inquiries in July, and only this week we received a final report from the legal fraternity. I will just pass on some of that information at this time.

Advice has been sought on this and related matters. I am advised that the situation regarding employment of members' staff is as follows: The employment of staff of members who do not renominate terminates on polling day; but, pursuant to directions and determinations made by the Chief Minister under the LA(MS) Act, employment is deemed to continue for a further two weeks, and there are provisions for severance benefits for certain staff. Staff of members who renominate and are unsuccessful are covered by the same provisions.

The employment of staff of members who renominate and are successful is deemed never to have terminated and they will be eligible for back payment of salaries and certain allowances after the declaration of the poll. The employment of staff of the Leader of the Opposition will cease on polling day unless arrangements made by the Chief Minister are varied. The employment of staff who are employed pursuant to Part 2 of the LA(MS) Act continues over the recess as Ministers and the Speaker continue to hold office.

I intend to circulate within the week guidelines on the use of office facilities and accommodation during the period from polling day to declaration of the poll. I will circulate to members a more detailed response.

Tourism Commission Funding

MR STEFANIAK: My question is to the Chief Minister in her capacity as Minister for tourism. The Government has stated that it is actively promoting tourism and also supposedly creating jobs in that industry in the ACT, yet I notice that you have closed a couple of major tourism shopfronts, one in Sydney and one in Melbourne. Can the Minister explain why a busload of tourists coming to Canberra cannot even buy a drink, let alone souvenirs or more substantial refreshments, at the Jolimont Centre on the weekend because the cafeteria is closed? How many jobs previously needed to man that cafeteria have now been axed due to the ALP Government's funding cuts to the Tourism Commission?

MR SPEAKER: Did you get all that, Chief Minister?

MS FOLLETT: I may have the gist of it, Mr Speaker; but I should say that it was very difficult indeed to hear. Mr Stefaniak raised the question of jobs in the Tourism Commission, as far as I can gather, and related that to the closure of the Sydney and Melbourne offices of the commission. There is no doubt that the closure of those two offices will result in some small number of jobs being lost, but it is a small number. At the same time, the Tourism Commission will be taking action to make sure that the marketing effort in both of those centres is preserved and is carried out much more efficiently.

I think that that issue, with all due respect to Mr Stefaniak, is really unrelated to the question of whether you can buy a drink in the Jolimont Centre. It is extremely regrettable if tourists arriving at the Jolimont Centre are not able to get some sort of refreshment, but I very much doubt that it is under the direct control of the Tourism Commission. I will make inquiries into that matter and try to ascertain whether there was any particular reason for the kiosk not being open; but I suspect that the answer is that it was a commercial decision by the operators of that kiosk and one which it would be very difficult for any government to influence, let alone to make a direction upon.

Boxing Control Legislation

MR COLLAERY: My question is to the Chief Minister. I should like to address it to Mr Berry, but he is not here. Your Government's legislation program, which was tabled in this house in June, if I recall, dropped the boxing control legislation from a similar legislation program left by the Alliance Government. In view of comments in the media recently by a spokesperson for the Sport and Recreation Office that the Bill is in the process of going to Cabinet, I ask whether the Boxing Control Bill has been restored to your Government's legislation program and will be introduced in the life of this Assembly.

MS FOLLETT: I thank Mr Collaery for the question, Mr Speaker. I will take that question on notice, although I advise Mr Collaery that the Government has not given consideration to possible boxing control legislation. The surrounding matters he addressed, I think, deserve a considered reply, and I will make sure he gets one.

Teacher Applications

MR HUMPHRIES: My question is directed to the Minister for Education. Is the Minister aware of claims that students at the University of Canberra who have lodged applications for jobs with the Department of Education have been waiting for four months for replies from the department, despite the fact that applications for these jobs closed in July? Will the Minister undertake to investigate the claims, and will he provide an assurance to the house that in future students who apply for jobs with the department will be kept properly informed about the status of their applications?

MR WOOD: I presume that Mr Humphries is referring to prospective teachers from the college. I am not surprised that a period of four months has passed; the Education Department these days, as it did when he was Minister, does advertise fairly early in the piece for teachers. As to the processes after that, I cannot give him an answer. If they are graduating teachers who are leaving college, as surely they must be, it could well be, as is the practice, that the success of their applications will depend in substantial measure on the quality of their pass.

Mr Humphries: Some of them might have finished in July.

MR WOOD: If that is the case, they do need some indication as to whether their applications were successful or unsuccessful. I do not know the detail of the department's processes as they select their teachers, but I will find out and get back to you.

Non-Government School Funding

MR STEVENSON: My question is to Mr Wood and refers to the Labor Party decision to make funding cuts of between 20 and 50 per cent to three non-government schools. Has Mr Wood asked people in the general community whether they support such budget cuts to non-government schools? If so, as our poll results of over 600 people throughout Canberra show that 59 per cent are opposed to budget cuts for non-government schools while only 35 per cent are in support, will the Labor Party re-evaluate its position?

MR WOOD: Mr Stevenson used the words "our poll results". I suppose he means Mr Stevenson's poll results. I am not sure that the Follett Government would act on those results. We are well in touch with the community. As the largest political party in this town, engaged in constant rounds of meetings and doorknocking and other campaign and routine strategies, we have a pretty good idea of what the community says.

The decision, as I have said on only one other occasion in this Assembly, since it has not been much asked about, was not taken lightly. Nevertheless, there was a cushioning that had been a privilege, a concession, long granted to the non-government schools. In circumstances where we needed to find some savings in the non-government schools program, this was clearly the most equitable way to do it. It was certainly a better process than hiving off a much larger amount of money from all schools, including those schools that could least afford it. The decision was fair in all the circumstances, and one that we will hold to.

MR STEVENSON: I ask a supplementary question. The question was: Has Mr Wood done the surveys? As the surveys show that the majority of people in Canberra are against the cuts, will he re-evaluate?

MR WOOD: Again, they are Mr Stevenson's surveys and, as is the case with a range of data Mr Stevenson presents to this Assembly, I do not place much credence in it.

Investigations Unit

MR COLLAERY: My question is directed to the Chief Minister in her role as director of the public service and the internal Investigations Unit. Will the Chief Minister assure the house that the installation of any listening devices by or on behalf of the internal Investigations Unit is expressly approved by her? If not, can she assure the house that no listening devices are currently used or utilised, by either the internal Investigations Unit or any agency contractor of that service?

MS FOLLETT: I think I should make it clear at the start that the Investigations Unit is part of the management of the public sector. It is not a legislated body; it is not a statutory body in those terms. It is a body that comes under the general management of my department rather than of me directly.

Mr Jensen: What a cop-out!

MS FOLLETT: Mr Jensen thinks that is funny. I fail to see the humour of it. It is a fact. Mr Collaery's question about listening devices is one that has not been brought to my attention before. I should give him an assurance that actions by the Investigations Unit are required to be

within the law. Quite clearly, the law that applies to any sort of listening devices must be applied to any action taken by that unit. I am not aware that such action has been taken. I can certainly assure people that I have never been asked to give, nor have I ever given, approval for such action. If Mr Collaery has specific concerns, he might raise them with me.

MR COLLAERY: I ask a supplementary question. I do not wish to derogate from any inquiries; but, if the Chief Minister is supplied with the name, the details of an experienced public servant who alleges the discovery of listening devices at some stage in a certain place, will she undertake to investigate that and report to the house?

MS FOLLETT: Yes, I will. As I say, I think it is open to Mr Collaery to raise such a matter with me. I do think it is important, however, that particular people's names, or particular identifying characteristics, are not raised in this Assembly, where they are under privilege. I would be happy to take up any such issue for Mr Collaery. Mr Connolly, my colleague the Attorney-General, has just reminded me that the Government has decided to legislate to control such listening devices.

Mr Collaery: So did we.

MS FOLLETT: I am sure you did, and we are continuing with that work. Such a Bill is currently in preparation.

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

PAPER

MR SPEAKER: I present for the information of members an audit report on the financial statements of the Auditor-General's Office for the 1990-91 financial year.

SUBORDINATE LEGISLATION AND COMMENCEMENT PROVISIONS
Papers

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services): 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 notices of commencement, as follows:

Building Act - Building Code of Australia 1990 (as amended to 30 September 1991)
Motor Traffic (Amendment) Act - Notice of commencement (S123, dated 4 November 1991)

Public Place Names Act -
Determinations -
No. 98 of 1991 (S124, dated 1 November 1991)
No. 99 of 1991 (S130, dated 13 November 1991)
Stock Diseases Act - Stock Diseases Regulations (Amendment) - No. 26 of 1991 (S121, dated 30 October 1991)
Trade Measurement Act -
Trade Measurement (Measuring Instruments) Regulations - No. 27 of 1991 (S125, dated 1 November 1991)
Trade Measurement (Miscellaneous) Regulations - No. 28 of 1991 (S125, dated 1 November 1991)
Trade Measurement (Pre-Packed Articles) Regulations - No. 29 of 1991 (S125, dated 1 November 1991)
Trade Measurement (Weighbridges) Regulations - No. 30 of 1991 (S125, dated 1 November 1991).

DEFAMATION LAW REFORM
Ministerial Statement and Paper

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.09), by leave: I take this opportunity to advise members of a significant recent development in moving towards a national Australian defamation law and to table for the information of members a draft uniform Defamation Bill prepared by the eastern States. I have previously advised members that, at the June 1990 Alice Springs meeting of the Standing Committee of Attorneys-General, State and Territory Ministers agreed that the question of uniform defamation laws should be reopened. Regrettably, the former Alliance Government did not take advantage of this opportunity and join the eastern States. Consequently, the uniform process was coordinated directly by the Attorneys-General of New South Wales, Victoria and Queensland alone.

At meetings of the Standing Committee of Attorneys-General and at various other times the eastern States have reported publicly on their progress and have issued several joint discussion papers on the reform of defamation law. On 14 August this year this Government announced its intention to join the eastern States' scheme. Since that time, we have given every support to the eastern States to achieve the goal of uniform legislation.

I am pleased to announce that a draft uniform Bill has now been prepared. On 14 November 1991 the governments of Queensland, New South Wales and Victoria tabled the Bill in their respective parliaments. I am pleased to table the same draft legislation today for the information of members of the Legislative Assembly. It is the ACT Labor

Government's intention to leave the draft legislation on the table until next session. This will give members and the ACT community an opportunity to examine and comment on the proposal. I propose that the Community Law Reform Committee will coordinate this consultation process.

The draft Bill is a significant milestone in the reform of Australian defamation laws. It brings ever closer the day when we will have one simple defence of justification, court recommended corrections, protections for innocent publication, and other measures to encourage media responsibility. If adopted in the ACT and the other States, the fact of uniform laws will help to clear our courts of the forum shoppers. Sometimes on the most tenuous of connections, litigants have commenced actions in the ACT simply because of the perception that the ACT provides particular advantages to plaintiffs.

The draft Bill is not a code. It complements rather than replaces the common law. The draft Bill provides that truth is a defence to an allegation of defamation. However, truth is not a defence when the publication constitutes an unjustified intrusion into the plaintiff's privacy. A breach of privacy will be justified only when it is in the public interest. Clause 21 provides a number of examples where an intrusion on a person's privacy might be justified - such as a person's safety.

Clause 22 provides that publication of parliamentary papers attracts absolute privilege. Other provisions preserve defences based on qualified privilege, such as multiple publication, mistaken identity and information. In addition, certain classes of official documents also gain a limited protection. The draft Bill also protects fair comment and situations where there is little likelihood of harm.

Perhaps the most important changes proposed in this draft Bill are those relating to the publication of corrections and offers of amends in the event of innocent publication. The Bill also provides for the appointment of mediators to advise on corrections and replies. In some cases, an offer of amends will constitute a defence. In other situations, corrections will reduce any damages. The draft Bill, however, leaves open a number of areas for action by various jurisdictions. The uniform Bill will need to be slightly reworked to fit the ACT situation, and I have asked the Community Law Reform Committee to consider this matter in greater detail.

While the draft Bill touches on the issue of privacy regarding the defence of truth, it does not attempt to deal with the issue of a new action for privacy. This is a matter that the Community Law Reform Committee is considering, particularly in the light of recent events in South Australia. The draft Bill also does not deal with a

range of procedural reforms that are necessary to streamline defamation proceedings. It is procedural difficulties that often cause lengthy delays and high costs in defamation proceedings. Again, the Community Law Reform Committee is examining in greater detail this matter of rules of court. The draft Bill does not identify the full range of protected documents, as this is properly a matter for decision by each individual jurisdiction. Again, I have asked the Community Law Reform Committee to consider that matter in greater detail.

We believe that the States and Territories should adopt a uniform approach to defamation law. Defamation does not stop at State or Territory borders, nor does publication in either the printed or the electronic media. Justice is not served by having half a dozen different laws that might apply to the one publication or broadcast. This draft legislation represents an important step in this direction, and I commend it to members. I present the following papers:

> Defamation Law Reform -
> Ministerial statement, 19 November 1991
> Proposed Uniform Defamation Law - Draft Bill.

I move:

> That the Assembly takes note of the papers.

MR COLLAERY (3.14): I rise to make some brief comments on the matter. As I have informed the house previously, the Alliance Government did not join the eastern States in this process, firstly, because we were not invited; and, secondly, because, even if we had managed to badger our way onto that group, I was of the view - and I remain of that view - that the ACT had a particular opportunity to attend to its rules of court and develop a more imaginative proposal.

I am sustained in that view by the leader in the *Canberra Times* of 18 November 1991. This would have been written by one of two journalists - the editor or the deputy editor or both - who are probably the most informed media commentators on defamation law reform in this country. They state that they are pleased that finally there has been a move, but they say:

> It would be foolish to pretend that the proposals in the Bill bring fundamental change to the law; indeed, most of the changes are fairly minor.

They acknowledge the issues that my colleague Mr Connolly referred to. I regret that he used the expression, "It was regrettable that the Alliance Government did not join it". I have already expressed the view that our Government could afford to be more innovative and reformist in defamation

law reform and in the issue of the media and ethics. I stress that, welcome though these moves are, I confidently predict that they will suffer the same constipation as have reform moves over the last 13 years. They do not deal with fundamental issues of court rules and court procedures.

Mr Connolly states in his speech, somewhat ambiguously:

> On 14 August this year this Government announced its intention to join the eastern States ...

As I understand it, although we announced that we were ready for marriage, we did not receive the offer.

Mr Connolly: Yes, we did.

MR COLLAERY: Mr Connolly interjects that we did join it. I accept that statement. We did join it. He then says:

> ... we have given every support to the eastern States ...

In fact, that support was already ongoing when I left as Attorney. In particular, a very innovative working party on the collateral issue of the media and ethics had been formed with the South Australian Law Office, which Mr Connolly has not referred to.

Not wishing to be churlish, but showing from the Alliance's perspective our displeasure with his comment that somehow we had a lapse in the matter and that it was regrettable that we had not joined the eastern States, let me assure Mr Connolly that I had a very good relationship over the years with the New South Wales Attorney, Mr John Dowd, as is well known. The upshot of all those arrangements was that we were fully informed, fully briefed and aware of what the processes were. We offered, on the other hand, to take on the politically perilous task of looking at the media and ethics reform. I know how perilous that was, particularly for me, and I am constrained in responding further on that, due to some legal proceedings.

I stress that the moves the Attorney has spoken of are very welcome to the ACT community. They are very welcome to all the people who are concerned about the outdated, outmoded defamation laws; but there are collateral issues that this Government could deal with without the problems of other governments which live in close proximity to media barons.

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

NEW CONSERVATIVE GROUP
Statement by Member

MRS NOLAN: Mr Speaker, I seek leave to make a statement regarding the formation of the New Conservative Group.

Leave granted.

MRS NOLAN: I thank members. I will be fairly brief. On 4 November 1991 the Electoral Commissioner, as delegate of the Australian Electoral Commission, determined that the New Conservative Group be entered in the Australian Capital Territory register of political parties. As founder of the group, I would like to take this opportunity today to announce officially the formation of the group, even though our first public statement was made on 11 October. The group will be standing candidates at the next ACT election - me, Fran James, Wendy Carlton and Rita Cameron. We are a group of like-minded individuals with experience and extensive knowledge of community needs.

During the last 2 years we have seen three ACT governments. Unfortunately, the community has often experienced individual interests and quests for power taking precedence over their issues and concerns. On the other hand, rigid party policy has also at times stood in the way of effective and representative decision making. The way the Labor Government handled the Stromlo and Holder campuses decision, even though the majority of the community supported the amalgamation taking place next year, is a perfect example of rigid party policy. It is about time the hot air stopped and the action started.

The New Conservatives recognise that actions speak louder than words, and both the Labor and Liberal parties have been long on rhetoric in government. Not only does the community need to be listened to; they also need to be heard. There are many people and many groups out there in the community who are suggesting genuine solutions to their problems. They must be listened to and then they must be heard. The New Conservatives are about individual freedom of choice and individual responsibility.

We care about quality education for our children; quality health care, which should be and currently is not available to the community; jobs, in particular employment for our young people. We care and are appalled that the tourism industry, Canberra's major private sector employer, received a $1m funding cut in this budget. Fewer marketing dollars mean an immediate reduction in the number of jobs available for our young people. Tourism at least received recognition in a statement the Chief Minister made in her budget speech, but in Trevor Kaine's reply there was not a single word. It would appear that the Liberal Party does not care about Canberra. I was a long-time member of the Liberal Party, but I found it impossible to work with Trevor Kaine. I know the way he operates. The community takes second place to arrogant decision making.

Mr Kaine: You will find it even more difficult now, darling.

MRS NOLAN: That sort of comment to women is something I absolutely abhor.

The fast-tracking of the principal hospital development and the closure of the Royal Canberra Hospital are perfect examples. I agree, as I am sure do many other people, with the comment in Jodie Brough's *Canberra Times* article on Sunday that, amid the hyperbole being cast about, there is little to tell Labor and Liberal apart. In my view, people in the community are scared of becoming sick. If you do not believe me, take a trip down to Woden Valley Hospital and have a look. I was there on Saturday night, and this feeling was absolutely paramount.

The community certainly does have a legitimate concern. If you live in Macgregor but the ambulance takes you past one hospital and on to Woden because it is the only hospital with the necessary equipment available, only to be informed that the necessary equipment is still sitting idle at Royal Canberra, then you have good reason to be concerned. The ACT health system is in a mess. It is a perfect example of an area where the community can offer sensible solutions. It is time they were listened to and heard.

The New Conservatives offer caring representation for the community. We consider ourselves to be ordinary members of the community, experiencing the everyday problems of living in the suburbs. We know that many people share our ideals. As I said earlier, it is time the hot air stopped and the action started.

HARE-CLARK INDEPENDENCE PARTY
Statement by Member

MR DUBY: I seek leave to make a statement regarding the Hare-Clark Independence Party.

Leave granted.

MR DUBY: Mr Speaker, my statement will not match the rhetoric of the previous speaker, I am sure. The Hare-Clark Independence Party is a political party whose aims include, among others, the adoption and retention of the Hare-Clark electoral system in the ACT and the election to the Assembly of independently minded folk who are truly independent from the major party groups within the Territory. The Hare-Clark Independence Party is a political party which, notwithstanding the efforts of some members present, has been placed on the ACT register of political parties - and I might add that it will remain there. I am a member of that political party and I wish in future to be identified as the parliamentary member, as defined in the ACT Electoral Act, of the Hare-Clark Independence Party.

EUTHANASIA
Discussion of Matter of Public Importance

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

Euthanasia.

MR MOORE (3.24): I raise this matter of public importance today - the notion of voluntary euthanasia and the concept of dying with dignity - because I support the legalisation of voluntary euthanasia. It follows my unswerving belief in the right of human beings to freedom of choice. Of course, that freedom of choice is, if you like, the ultimate choice.

I understand that this is a very unusual thing to do, certainly in our parliament. It is the first time that a matter of public importance has had a single word as the issue for debate. The reason I have the single word "euthanasia" as the issue to be discussed is that I believe that it would be premature for this parliament to raise the matter as one where we are seeking to come up with a series of conclusions. I believe that the debate on this issue has not yet been carried out broadly enough in the community, and raising the issue as a matter of public importance rather than as legislation is an appropriate way to begin to discuss it and to have people sound out their ideas on euthanasia.

"Euthanasia" derives from two Greek words - "eu" and "thanatos". "Eu", meaning "good", is the way the word appears in "eucharist" or good Christ - and some people here would be familiar with that - and in "evangelist", where the "v" sound is taken on and in that case means a good messenger. "Thanatos" is the word for death. So, we are talking about a good dying. The *Concise Oxford Dictionary* defines "euthanasia" as the bringing about of a gentle and easy death, but under Australian common law it means murder. There is a very great difference in attitude.

It is very important at the beginning of this debate to distinguish euthanasia from the suicide that occurs in a fit of depression or when a person is a manic depressive. That is a very different issue from the one we are talking about. It is important for me at this stage to quote statements from the Voluntary Euthanasia Society of New South Wales, and I acknowledge that some of the comments in my speech will come from their material. I quote directly:

In spite of improvements of living conditions and great advances of medical knowledge in recent decades, the chance that there will be a time of substantial incapacity and suffering before a

> person's death is no less now than before, and may be even greater. Doctors are better at postponing death than returning patients to health, so that many more people with irreversible and disabling conditions are kept alive than formerly. Doctors have been more successful curing the greatest killer diseases of old than coping with the horrendous accidents that have become so much more prevalent.

When dealing with the issue of euthanasia, I find it relatively simple to deal with the black-and-white case of the person with terminal cancer, for example, who is suffering a great deal of pain, with the chance of a horrific death and great suffering, and perhaps only a month to live. In that case I have no difficulty about legislating to allow that person to make the decision to bring about their own death, particularly if they are well enough to take a drug that would prove fatal.

I do not think that is the difficult part of the debate, and when we deal with it I think we will find that our community will respond as in Victoria, where there is 75 per cent support for that notion. I do not think we will have a great deal of difficulty with that part of the debate, although there will be some who will argue against it. I will refer later to the Catholic Archbishop of Canberra and Goulburn.

It is important for us to begin to wrestle with the grey areas in the debate, and I think that is where we are going to have difficulty in legislating. I suppose the notion of euthanasia affects us all because we are all going to die. We can imagine ourselves in a situation where, rather than suffering a great deal of pain, with nothing to extend our lives for because we are bedridden, this is a decision we would want to make.

I am aware that the Labor Party in the ACT has adopted euthanasia as part of its policy, but I have no intention of dealing with that policy. I am content that they will have the opportunity to do so in a few minutes.

Active voluntary euthanasia is the rapid and painless inducement of death at the patient's discretion. Many observers distinguish between active and passive euthanasia, and certainly there is already legislation in Victoria, South Australia and the Northern Territory, and I understand that there are proposals for legislation elsewhere, dealing with passive euthanasia. Passive euthanasia is the ability for a doctor to remove life support systems without which the person will die.

I think most of us are able to distinguish quite clearly between passive and active euthanasia. Many people who would accept, even reluctantly, passive euthanasia certainly would not accept active euthanasia. I believe that there is a place for active euthanasia. Euthanasia is

different from suicide. Euthanasia refers to the practice where life is terminated in patients with incurable terminal diseases and usually suffering great pain.

I refer to an article in the *Canberra Times* of 27 June 1991 on the church speaking against the policy. The article states:

> Writing in the July edition of the diocesan newspaper *Catholic Voice,* Archbishop Carroll said the policy was to be condemned in the strongest possible terms.
>
> "If implemented, it not only legalises suicide but also gives doctors a licence to kill", he said.
>
> To take one's own life or to take the life of another contradicted the basic moral law which safeguarded human life.

I find it a great irony that a church that has supported war after war should come out with a statement such as that. It is, to me, the height of hypocrisy. If the church wishes to make a statement such as that, I advocate that they should also be consistent and ensure that whenever there is a war on the horizon - I cite the Gulf war and the Vietnam war as examples; I think most of us remember the Catholic Church's stance on the Vietnam war - they should value human life in that circumstance as much as they value it in this circumstance.

The archbishop referred to the basic moral law which safeguards human life. There is no such basic moral law as the church refers to. Those of us who recently watched *Brides of Christ* - I caught up with the final episode only last night on my video - would also be aware that it is similar to referring to what some call the natural law. Once again, it is an entirely untenable position in logical terms to hold anything as a natural law.

In stark contrast, I had discussions with the Anglican bishop and, although I am not at liberty to put his position on the issue, I found that it is more thoughtful, more caring, more compassionate, more understanding and more tolerant. That is what we are talking about when we talk about euthanasia. We are talking about those very issues. We are talking about compassion and understanding and tolerance.

Under Australian common law a doctor must never do anything actively to kill his patient, but he is not bound to fight for the patient's life forever. Suicide and attempted suicide are no longer offences at law. However, to aid and abet suicide is an offence. To legalise euthanasia is to avoid inflicting needless pain on the loved ones of patients and on the patients themselves, who can decide to end their lives without a doctor's help.

The law needs to be changed to allow medical practitioners to advise about methods of suicide. Ideally, it would be possible for qualified medical practitioners to administer the drugs under strictly controlled conditions so as to prevent any chance of imposition or coercion. I would not like that to be misconstrued; the medical practitioner should be able to deliver the drugs for the person to administer himself or herself. It may well be that a qualified medical practitioner would be prepared to assist a frail, aged and in pain person, for example, and would actually hold the syringe and use positive action to indicate that they are participating and are attempting to bring about the delivery of that drug.

Any legalisation would need to provide safeguards against coercion, against fraud, and against those difficulties that are raised in the normal arguments against euthanasia. Voluntary euthanasia would require the participation of doctors, relatives and patients, and it would require exhaustive discussion and documentation and exhaustive counselling. It is important, of course, to avoid the case I referred to earlier where somebody who is depressed decides that they wish to commit suicide.

I have heard some say that life is thrust upon us; the choice to live is not ours, but the right to die should be. A statement of that nature expresses the strength of feeling that some people will reach. Let me emphasise that in dealing with this issue we should not do as Archbishop Carroll has done and try to turn it into a black-and-white issue. It is not. It is an easy way to debate such an issue. It is an easy way to put down the logical, rational and thoughtful arguments that may well go into a debate such as this to try to turn it into a black-and-white argument. It is not and it ought not to be treated that way.

The arguments against euthanasia usually start with the notion of the thin end of the wedge, sliding down the slippery slope; if we allow euthanasia, before we know it we will be spreading out of voluntary euthanasia to compulsory euthanasia and we will have a Nazi-type situation. That is absolute, complete and utter nonsense. That is to try to put it into a black-and-white argument and to resolve the debate in that way. To suggest that it is only the beginning of the degradation of morals, a situation where we will be able to dispose of our elderly, is absolute nonsense. When we put the legislation together we must ensure that that does not happen.

Tied up with that is the argument that it will become much easier for somebody to dispose of unwanted relatives - parents and grandparents who are elderly, infirm, perhaps incapacitated. Those are, if you like, the dangers; but they ought not dominate the debate. What we should say, wherever a debate occurs on euthanasia, is that we accept that safeguards need to be built into legislation to ensure that those things simply cannot happen.

It gives me pleasure to raise this issue in the Assembly today. I hope that we will continue the debate and move closer to the time when appropriate legislation is brought into this house.

MR HUMPHRIES (3.39): Mr Deputy Speaker, it appears to be open season on bishops. This is the second senior cleric who has been attacked in this Assembly in as many months. It is not a terribly encouraging trend on the part of the legislature.

Mr Moore: I did not attack the bishop; I attacked what he said. I quoted and attacked what he said.

MR HUMPHRIES: With respect to Mr Moore's comments about the Catholic Church's views or Archbishop Carroll's views in particular, it is unfortunate that the debate needs to degenerate into a fairly personal and extremely vociferous attack on another person's views in order to furnish some kind of discussion at the level Mr Moore would like to see it occur. I, for one, do not think that is appropriate. If Mr Moore expects to get any genuine and rational debate in the community, he should do it without making comments of that kind. However, that is Mr Moore's funeral, if you will excuse the pun, and we have to take that as it comes.

I am pleased in one sense to see that we are not today debating the guidelines that were referred to on the ABC some weeks ago when this issue was first raised. At that time it was reported that Mr Moore intended to put guidelines before the Assembly and that those guidelines would be the basis for future legislation in the Territory governing euthanasia. Mr Moore has rightly indicated that this would be premature, and I think he is wise not to proceed with anything more concrete at this stage. The brevity of the title of this matter of public importance certainly assists in that regard. I also think it would be inappropriate this late in the Assembly's life to be moving major pieces of social engineering, as it were, and for that reason this debate should be left as general as possible.

This is obviously a debate where one should exercise a personal view, and the views I will put are very much mine rather than the Liberal Party's. In that respect, it is unfortunate - in fact, I will go further and say that it is disgraceful - that the Australian Labor Party now has a position, if the newspapers are to be believed, which binds its members on the floor of this Assembly with respect to the issue of euthanasia. That is, they have a party position which, under Labor Party rules, is binding upon members and a breach of which has the potential to cause expulsion or other disciplinary action against a member of the ALP.

It may be that present members of the Parliamentary Labor Party have no difficulty with this policy of the Labor Party on euthanasia. Whether that is the case for future members I could not say. It is unfortunate in the extreme that we have moved away from a situation, which to my knowledge has always been the case in every parliamentary party everywhere in this country, where issues such as this are matters of personal conscience. I hope that in future, despite the strong personal views of members of the Australian Labor Party, they never find themselves in a position of being constrained by party views on such an intimately personal matter as this.

My personal view is fairly clear. I believe that life is sacred and that therefore it is inappropriate for governments to prescribe circumstances which compromise the sacredness of that life. My objections to the proposals that have come before the community, and I put it in those broad terms because I have seen proposals from the Voluntary Euthanasia Society on this question, and I assume that other members have as well, concern the many unanswered questions - indeed, in my view, unanswerable questions - surrounding euthanasia.

If I might summarise what I see as the proposal being put forward by this organisation, it is that individual people could enter into agreements or contracts with their doctors to terminate their lives, either at the point of execution of those documents or at some point in the future, if certain circumstances or conditions are fulfilled. That, as I understand it, is very broadly the nature of the proposal. It gives me grave concern, for a number of reasons which I will now outline.

First of all, I believe fundamentally that a change of this kind must affect the doctor-patient relationship, not just in the case of the particular individuals who enter into contracts between themselves and their doctors but also in the case of every person who is treated by a doctor. In a very real sense, this provides a very new, very potent, symbolically important power to a doctor. A doctor has the capacity to end a patient's life without consent. I say "without consent" advisedly because, as I understand this proposal, it is possible - in fact, quite likely - that a patient will be unconscious or unable to make a rational decision because of intense pain or mental condition, in which circumstance the doctor would have to exercise a discretion about terminating that patient's life.

What is clearly happening, in my view, is that the patient's life is being ended without any express consent to that happening at that particular time. The patient may well have given to a doctor, at some point in the past, an authority to end that patient's life in certain circumstances, if certain conditions eventuate in the future. None of us has the capacity to know exactly what life will bring us. None of us knows exactly what

circumstances we might find ourselves in in the future, and to project the circumstances in which one might feel the requirement to have life terminated is an immensely godlike vision, which I suspect most of us do not possess.

We need to be aware that there would be intense difficulties in defining the circumstances under which a doctor might exercise some discretion. I assume in all of this that there is some discretion on the doctor's part, and I will come back to that in a moment. Assuming that there is some discretion, there would have to be a very tight definition, presumably, of the circumstances where death might be administered by a doctor. It assumes, although it is not expressly stated, that a patient needs to be seriously ill.

But the seriousness of that illness is not anywhere, that I have seen, attempted to be defined; nor is it made clear whether that is a condition of the exercise of some power to administer a drug or whatever that would terminate a person's life. For example, a person with a terminal illness who is lying in bed in a hospital and who may be literally weeks or days from death would presumably be the ideal candidate, should they so desire, for euthanasia.

Alternatively, there are people with very much less serious diseases, possibly not even life-threatening diseases, who might under these circumstances wish to avail themselves of the opportunities presented in these proposals. I give an example: I knew a person who thought she had been diagnosed as suffering from diabetes. This person was intensely distraught and upset about the prospect of living the rest of her life with diabetes. She was not in any way nearing death - diabetes is generally not a fatal disease - but she foresaw the circumstances of her life, having to administer injections to herself for some time to come, and seriously considered suicide. I wonder whether, under the proposals Mr Moore has referred to, her suicide would be sanctioned by the law.

One could choose cases of even less medical seriousness, if I might put it in that way, where under these guidelines a person might be entitled to come forward and say, "I wish to exercise an agreement with my doctor and to prescribe circumstances where my life would be terminated". I would be grateful if those who come after me in this debate could attempt to define the circumstances where that might happen. Frankly, I believe that those sorts of abuses are open to patients or even to doctors, unless a definition is presented which prevents them from happening.

A third problem that presents itself to me is the opportunity for abuse. I believe that there is a great danger that euthanasia could become not just an instrument of personal choice but also one of public policy. I am aware that there are some communities - Holland, for example - where euthanasia is practised and where very real questions have been raised about the capacity of doctors or

medical institutions or others to abuse the opportunity for euthanasia. That is a very real concern. Nobody is immune from errors of judgment, and in certain circumstances deliberate acts which abuse a power to administer euthanasia must be expected.

I understand that in different institutions in Holland very different rates of euthanasia exist. Is that because particular people go to particular institutions in order to exercise this right or is it because different doctors or different institutions view this power in a different way? It seems to me that that is a very real question that has to be answered before anyone could seriously propose that euthanasia become an instrument of policy in the ACT.

I certainly would be very anxious to understand what restrictions could be placed on the community to prevent those sorts of abuses occurring, and I suspect that in many cases it is not possible to impose restrictions of that kind. Mr Moore, for example, earlier today was "Hear, hear-ing" the immense pressure on the public hospitals of the ACT, bemoaning that fact. Are we absolutely certain that doctors who faced pressure on beds in a hospital or a nursing home, or whatever, would not on occasions choose to use euthanasia as a device to provide some relief from their problems? People might think that is far-fetched. There have been allegations of just that happening in instances where euthanasia is available, and I suggest that some study of the literature emanating from Holland would be very useful.

I understand that the group most opposed in general to these proposals, to the idea of euthanasia becoming an instrument of policy in our medical system, is the doctors themselves. I understand that the AMA, nationally at least, has expressed very strong reservations about policies of this kind. I look forward to those in this community proposing euthanasia getting in touch with doctors and finding out what the practical difficulties would be in allowing such a policy to be used in this Territory.

I am gravely concerned about this proposal. I, for one, would consider its adoption a very marked decline in the standards our community adopts with respect to life. I believe that the Reverend Tom Wright, of St Augustine's parish in Farrer, summed up very well the implications of this policy when he said that it would "enable the killing of selected Canberra citizens". He went on:

> The Labor proposal -

he was talking about it in the context of the ALP policy then announced -

> is deceptively benign but morally bankrupt. It is superficially compassionate but murderously destructive.

Mr Deputy Speaker, we must hear those words. We must consider those words. It is not unexpected that a cleric of the Catholic Church would make comments of that kind. That does not mean that they should not be considered and taken on their merits as an argument against this proposal. I believe that unless the questions I have raised can be answered satisfactorily, and as yet I have heard no satisfactory answer to them, we must be very careful about embarking on a path that would lead to euthanasia being available in the ACT.

MS FOLLETT (Chief Minister and Treasurer) (3.53): I believe that we owe a debt of thanks to Mr Moore for having brought forward this subject as a matter of public importance. It is a matter on which there ought to be a large amount of debate, and we should be grateful to him for having taken up the cudgels.

I think it was the adoption of a policy by my own party, the Australian Labor Party, that gave rise to this debate, at least in this forum, and I want to say a couple of things about the policy of my party. Any policy adopted by the Australian Labor Party has been through an exhaustive process, a public process and a democratic process. Policies within my party are made, usually, through a policy committee. They go through a process of debate and they are put to the annual conference of the party before they are adopted. So, there has been a good amount of debate, a good amount of discussion, of any policy my party adopts. There is nothing secretive in that process. It is a process in which all party members have an opportunity to take part.

I am sure members will be aware that the Labor Party in the ACT is the largest community party, and therefore its views could be said to be generally those of the community from which we are drawn. Having adopted a policy, the Labor Party does not bind its elected representatives to the timing of the implementation of such a policy, nor could they. They adopt it as a policy and, as is indicated in that policy, it is left to a Labor government to get on with the implementation. I say that because I believe that it is very important to note that I consider euthanasia to be an issue where a great deal of community consultation, community debate, is still to occur.

I was alarmed to read in the *Canberra Times* editorial of 8 November this year this statement:

> ... the local ALP prepares a Bill to legalise euthanasia.

That statement is quite wrong. The local ALP, or the Labor Government, as I think it is more correctly known, is not preparing the Bill, and, had the writer of that editorial bothered to check, he or she would have been put right on

that point. We are not preparing the Bill because we wish to ensure that the concerns of our community are fully taken into account, fully canvassed in debate on this very important issue.

Mr Moore has pointed out some of the reasons why the issue of euthanasia concerns everybody in our community. I would like to reiterate some of those views put by Mr Moore. The issue concerns every one of us as individuals and every one of us as family members. It also concerns us as members of groups which may represent particular interests or particular points of view. Mr Deputy Speaker, Mr Moore pointed out that we will all die, but I think perhaps more relevant to this debate is the fact that we will all be close to someone who is dying or who is about to die. It is at that point that we will really need to consider what is in that person's best interests.

The issue of euthanasia, as Mr Humphries has pointed out, also concerns closely the health professionals. I think that we could all appreciate that health professionals - and particularly doctors, who are bound by the Hippocratic oath - need to have the issues debated and the guidelines drawn before they are exposed to any risk or any allegations that might be made about their professional practice. I was a bit alarmed by Mr Humphries' apparent disquiet about doctors and their motives in dealing with dying patients, Mr Deputy Speaker; but I think he is right to raise the issue that we do need to look at the question of all health professionals in their care of people who are dying.

I do not believe, Mr Deputy Speaker, that the churches' views are irrelevant in this debate. Mr Moore has taken issue with some expressed church views, and I think that many of those views have been expressed in intemperate language. But it is the case that many people turn to the church when they are dying, when they are suffering a terminal illness or when they are in some other circumstance of family catastrophe. The churches' views, I think, should be taken into account. But more importantly at this point, the church should have an opportunity to put a view other than in the *Canberra Times*. We know how things are reported. They are reported in a dramatic and confrontationist fashion. This debate ought to be taken out of that style and put into a more serious and concerned light. In that light, I think the churches' views should be taken into account.

There is, of course, a broad spectrum of steps which might be taken, Mr Deputy Speaker, in terms of allowing people to die. They range, as Mr Moore pointed out, from the generally passive steps to active steps. Many people think a person exercising the right to refuse treatment or the creation of a living will is a reasonable first step to take. Right at the other end of the spectrum, of course, we have the legal protection of doctors or others who actively assist people to die. I think that is the extreme end of the spectrum of debate on euthanasia.

But there are serious questions which need to be answered at every point along that spectrum. Those questions relate to the human rights of the people involved; their civil liberties; the ethics involved, and there are ethical questions in all of this debate on euthanasia; also the professional judgment and the professional practice of people who might be asked to take responsibility for this action.

Mr Deputy Speaker, it is my party's view that all of this needs to be debated. Mr Humphries constantly refers to a proposal. There is no proposal that I am aware of.

Mr Humphries: There is a policy.

MS FOLLETT: There is indeed a policy, Mr Humphries; but there is no proposal. As I have said, we are not currently preparing legislation; nor will we, until that process of consultation has taken place. We have debated informally amongst our Labor members how that debate might best be progressed.

Some of the ways that we have come up with include a reference to the Community Law Reform Committee - a committee which has done very good work on some other difficult issues, and which I am quite sure would make a sensible and balanced contribution to the debate on euthanasia. It might also be appropriate in the next Assembly for the Social Policy Committee to undertake a reference on this issue. I realise that they are hardly in a position, at this point, to undertake such a reference. But, given that they have undertaken the consideration of some difficult issues and consulted widely with the community, I think that our own Assembly committee system might be a good one to use in progressing this debate.

I will close my remarks there. I would again like to say to Mr Moore that I appreciate his having put the issue before us today. As I say, my party does have a policy; but it is not one on which we will be taking precipitate action. I do regret that the *Canberra Times* editorial might have unnecessarily alarmed people into thinking that precipitate action was about to be taken. We will take action in the light of full community consultation on this matter, as on any other important issue.

DR KINLOCH (4.02): I also thank Mr Moore for creating the opportunity for us to speak on the subject of euthanasia. I welcome also the unique nature of the MPI. It is not a motion; it is not a sentence; it is not a statement. I think we could well do this on other matters. I welcome the other contributions being made to this debate. It seems to me that they are being made thoughtfully and carefully and out of due consideration of the difficulty of this matter. I agree very much with everyone who has spoken about the need for an informed public debate - and let us stress "informed".

Euthanasia is such a formidable and important subject that I would not want my comments today to be regarded as final or definitive. I believe that this is a useful preliminary discussion only and, from what the Chief Minister has said, I can see that that is the case. Indeed, I welcome the suggestion about the Social Policy Committee. This matter is obviously - like any other major moral, ethical and social issue related to life and death issues - a matter of conscience, and I understand the point that has been made. I will certainly respect all comments today from all members as representing their individual views, and I agree about the difficulty of grey areas.

I do not speak personally out of some kind of dogmatic religious ideology. I do respect, however, the views of those religious and faith groups which put this matter under the general heading of the sanctity of life or the sacredness of life. We must hear those views and be responsive to them. Speaking for myself, which surely in this matter is what all of us must do, I would like to say quickly that the Residents Rally does not have a view here. Some of our members may have quite opposite views on this matter.

The Religious Society of Friends - Quakers - does have strong views on the taking of life. I would like to quote one view of this from *Christian faith and practice in the experience of the Society of Friends,* a 1966 reprint of the 1960 edition. Forgive that rather academic reference, but the body of material from which I am about to quote is itself being revised, and this particular matter may itself be in need of revision; but what that 1960 view said about capital punishment - in other words, about the taking of life by the state - was this:

> the sanctioning by the State of the taking of human life has a debasing effect on the community, and tends to produce the very brutality which it seeks to prevent.

That comment was in relation to capital punishment, but there is a carry-over impact which equally applies to a process which would approve of the legal power of taking life under circumstances which relate to the choice of individuals to have their lives brought to an end. Whether people do or do not have the right to take their own lives is itself a huge moral debate. Whether people, having decided to end their own life, should allow another person to take their life is an even larger ethical and moral debate. In the case of capital punishment, there has to be an executioner or executioners. In the case of medical procedures which would either remove life support systems or actively bring about a clinical death, there is, inevitably, the need for a passive or active process which involves someone in taking that life.

As the Chief Minister rightly says, there is a considerable spectrum there; I am paraphrasing what she said. There is a very great gap between the ends of that spectrum. Discontinuing a process which is clearly useless as someone is dying or refraining from adding one more procedure - more oxygen, another drip - if it would only uselessly prolong life is very different indeed from, at the other end, active participation in the bringing of a life to an end.

I certainly recognise the complexities of so-called euthanasia, whether passive or active, whether a refusal to continue a life sustaining process or a deliberate injection of some sort which leads to death. So, I wish to note what the Society of Friends has to say about such complexities at the moment. I do not do this just to put that view forward but to suggest that perhaps this is a situation we may all be in. I stress here that I do not see some crystal clear advice in this handbook. This is the comment:

> ... there are ... issues which rightly exercise the Christian conscience, but upon which the Society of Friends has formed no corporate judgment.

I leap to another paragraph:

> Confronting all such perplexities we should beware of putting forward our corporate findings too dogmatically. It is our faith that, with changing circumstances and the fresh insights that new experience may make possible, light will be given us to see together the will of God more clearly.

If I could paraphrase that in my own terms, it is that we are in 1991, not 1591 or 1091. Having visited a number of hospitals in the past week, including St Vincent's, and having seen their hospice from the window, I am well aware that we are in technical situations which are very different indeed from the situations of other centuries. I do not believe that that changes the moral or ethical choice, but I do recognise that the circumstances have changed.

Now I want to put a personal view, partly in relation to something that Mr Humphries said. I thought he spoke most eloquently and to the point. Here I want to pick up a point that he made. I do not really agree that suicide is unrelated to the question of euthanasia, because it is a decision made by someone who wishes to have a euthanasia procedure to end his or her own life. I do not want to put some kind of huge moral blanket around the word "suicide". I am trying to use it in a non-contentious way, but surely the words do have connections.

I would like to mention two cases. One is of a soldier in World War I who was at both Battles of the Somme, was seriously wounded in the second Battle of the Somme, and was invalided back to Scotland where, for over a year, he was in hospital. For the rest of his life he suffered the effects of his wounds and the trauma of the war. His condition affected the way he thought about life and death, about society, about economic values, about everything in life, including personal relationships.

This person - and I assure you that I am trying to speak as accurately and carefully as I can, from direct knowledge - in his middle and later years, was in direct contact with the Euthanasia Society of Great Britain - I am not sure I have the title right, but that is the nature of the society - asking that his life be taken. Of course that was illegal and, I suppose, unthinkable in the United Kingdom of that time; we are talking about maybe 30 years ago.

At times of his life he was in very great pain, both mentally and psychologically. I think people used to call it neurasthenia. Perhaps there are other terms now. We are partly playing with words. There was not any doubt about the way sometimes this particular man saw life. However, I want to say of him that, whatever he may then have said and written - and I recall one of his letters - what happened to him in life was that in his mid-eighties he became a migrant to Australia for the second time and lived another seven years, dying at the age of 91 in Jindalee Nursing Home, dying - if I may take the useful description given by Mr Moore - a good death.

Dying a good death is itself a value to be considered. It is all very well for us standing here in good health to say that. We may not think that when we are 91. But I do believe that there is such a concept. It is not only a religious concept; I think it is a secular concept as well. Had his wishes been carried out when he was a middle-aged to late middle-aged man, he would not have had that satisfaction of a longer life, of seeing his grandchildren born and growing up, of living a new and rich life in his eighties and nineties. He was someone who at that time in his life believed in euthanasia.

The second case I want to mention - and I hope you will accept that these cases are meant to be illustrative; individual cases do not prove things - is rather different. It is not of someone who probably had any views one way or the other on euthanasia, as far as I know. It is the case of a woman who had been through two stillbirths, several miscarriages, a clinically approved abortion and a series of personal tragedies. *(Extension of time granted)*

She wished to die, and she set about the business of trying to commit suicide full tilt. At a time of great distress 28 years ago, not in this city, she attempted suicide. There is no doubt in my mind that she wished to do that.

But she was discovered in time, an ambulance was called, it was touch and go, and she received not only medical but also counselling and psychiatric care. The Social Policy Committee is very aware of this issue at the moment. In due course - and I am shortening this now - after a considerable length of time, she thanked the person who found her, and she went on to a very rich life, marrying a man with three children whom she helped to bring up, and so on and so on. I could go on.

The point I want to make here is related to the need for individuals who may at one time be sure that they wish to bring their lives to a premature end to recognise that they may subsequently regret that choice. Once the choice has been made, it is irrevocable. If you can prevent that choice being made, people may well be grateful. Otherwise, it could well be too late to reverse what they had once decided. To be sure, a living will might be made under one set of circumstances which could dramatically change in other emotional and psychological circumstances. I welcome this chance to begin the debate about euthanasia, I re-echo some of the very great warnings that Mr Humphries gave, and I think we must approach this subject with very great caution.

MS MAHER (4.14): I will speak only briefly, as I know that Mr Collaery wants to speak. I think euthanasia is a very interesting issue, and it will be interesting to see what views are expressed by the community. I believe that life is sacred, as Mr Humphries said; but I believe that the quality of life and the choice of dying in dignity are also sacred. I believe that the terminally ill patient should be allowed to die naturally and without blame being pinned on a doctor.

Under Australian common law, "a doctor must never do anything actively to kill his patient, but he is not bound to fight for the patient's life forever". "Forever" may be the important word in that sentence. But I still think there would need to be very strong safeguards against abuse if any legislation were to come in. There would need to be adequate counselling for patients and more than one doctor's statement that the condition of patients will not improve - that there will never be any chance of recovery and their health and their quality of life will deteriorate to a stage where it will be impossible.

There have to be some safeguards. I know personally of a young lady who was involved in a car accident. She was in a coma for quite a long time. Her parents said that her life would not be worth living; that therefore they should let her die. They chose not to do that but to fight for her. That young woman is now up, walking around and making a valuable contribution to the community.

There are a lot of issues surrounding the question of euthanasia, and they are very complex issues. I believe that there needs to be much more research and community consultation before any policy or legislation is put into place. Any decision needs to be very well informed, and we need to be totally convinced that it is the right decision. Mr Speaker, world surveys presently support euthanasia, and certainly I would like to see more discussion of it in the ACT. But I also support Mr Humphries when he says that it should be the subject of a conscience vote and not party policy.

MR COLLAERY (4.17): Mr Speaker, the views expressed in this debate have been interesting, but we have not had the opportunity to put on the record what the current legal situation is. I will do that briefly, and then move on. I will be as quick as I can. In this country it is not unlawful for a patient to refuse treatment. However, as one cannot consent to being killed, the health professional cannot hasten death. That requires, at the very least, that pain relief, foods and fluid be administered and that any other treatment which is not extraordinary be given.

The next thing - and I will not go through the enduring power of attorney issue, but that is what I am referring to - is that, if that attorney down the line refuses any sort of treatment, the health professional might still act where the opinion is that treatment could save the patient's life or is therapeutic or on the basis that the patient would have wanted it.

Next, the health professional runs a risk of an action for battery in these cases, but the court is likely to be unsympathetic to the claim. If the health professional does not act when there is a reasonable chance of saving life and the person dies, a spouse might sue the health professional for negligence. Therefore, the purpose of natural death legislation of the kind in New South Wales - and here - is to provide a living will provision that states the patient's wishes in advance, thus protecting the health professional from an action for battery.

Next is passive euthanasia - that is, asking a health professional, for example, to switch off life support. It has had a chequered history in the United States, where some States permit it whilst others deny it. The courts in the United States are recognising the multi-disciplinary ethics committees in hospitals, where they have to be consulted and agree on the circumstances in which a switching off is justified. In Australia and the United Kingdom it is still technically homicide.

The next situation is asking a health professional to inject a lethal dose. This is active euthanasia and is not permitted in any jurisdiction in Australia. It involves giving pain relief or other medication which may hasten death. All of those who have witnessed that situation know what I am talking about. I will not go into the emotional

side of it. The English courts have recognised that where death is imminent - and that has never been defined by the courts, as far as I know - measures to relieve pain and suffering may be taken even if they may incidentally shorten life. There was one Australian case involving this point. It was in the Supreme Court in Melbourne in 1985. The matter was not appealed; therefore, it does not assist me and I do not have time to discuss it.

The next situation is: Can health professionals take a unilateral decision to mark a patient's chart "Not for resuscitation"? That is the problem addressed in the New South Wales Department of Health discussion paper released last year, which I commend to members. It appears that such an action by a health professional may constitute a criminal offence of homicide and also be grounds for civil action for negligence. However, as we know, a doctor is not obliged to carry out patently futile treatment.

The New South Wales natural death legislation, which I commend for examination, provides as follows:

> If a person suffers from a terminal illness, death is imminent, no reasonable prospect of recovery with life support, they are of sound mind and over 18 years, they have been fully informed of alternatives and consequences of any action, and a direction is witnessed by two people over 18 years, neither of whom is a treating physician.

We have an enduring power of attorney in this Territory; but, as anyone who read last month's Law Society newsletter would know, at least one of the major banks is refusing to support the power as it is presently framed.

The effect of the direction of that enduring power of attorney on a medical practitioner was referred to by my colleague Dr Kinloch. That enduring power of attorney does not alter a patient's general right to refuse treatment; it does not alter the duty to provide measures, palliative and therapeutic, that are not artificial life support to any patient, whether the patient has made a directive or not; and it does not alter the duty to give artificial life support to a patient who has not made a direction. Of course, I remind members that no-one can authorise an act or omission which causes or accelerates death rather than letting it take its natural course.

US courts use the test of whether one is prolonging death rather than life. No-one can direct prevention of artificial respiration or circulation on a dead person for the purpose of harvesting organs or, where that person is a woman, for the purpose of preserving the life of the foetus. No-one can authorise an act which causes or accelerates death rather than allowing it to take its course. On the legal advice that was available to me as Attorney - and I am indebted to Brendan Bailey of the Law Office for these notes which I have retained - a doctor

will not be held to be the cause of death where he or she follows such a direction. This means that there is still no opportunity for refusal of life preserving treatment on behalf of another under any circumstances. Directives do not apply to the withdrawal of life preservation of a person who is in a persistent vegetative state unless that person has already made that decision referred to by Dr Kinloch.

That brings me to the Dutch situation. I will make available to members an extract from the *Hemlock Quarterly*, of July 1989, headed "The Netherlands as a Role Model". Professor Batlin, a professor of philosophy at the University of Utah, examined the Dutch system. He found that an estimated 6,000 of these deaths occur each year, although official figures are significantly less. He says:

> Death in Holland is a process as opposed to a discrete event. It is shared as much by family as the patient. Typical aid in dying in the Netherlands involves the administration of barbiturates followed by an injection of curare. Whilst many of these deaths occur in hospitals and nursing homes, a great many take place at home. In nearly all cases the patient has had a long-standing request with his or her physician, with family members and, I stress, often with the clergy.

The professor goes on to indicate why the Dutch have created this system in a manner unlike the manner in which our common law system approaches it.

Ms Follett mentioned the Labor Party policy on the matter. My view, of course, is that if you have a policy - if you have a platform and you stand on it at an election - people generally expect that, if they are asked to elect you for the term, you will implement your policies. I think there is something slightly ambiguous in a Labor Party platform which, as we all know, leaves the timing or implementation to its executive. That situation would not be accepted in the Rally. Our people would expect us to implement our policies in government.

Mr Connolly: It has been there for 100 years, Bernard.

MR COLLAERY: I am well aware, as Mr Connolly interjects, that it is there; I am well aware of the need for consultation; and I am well aware of the fact that the Labor Party is reluctant to approach this issue. It is extremely reluctant to approach the issue. Mr Moore is not. I believe that there are significant elements in the community who deserve a quicker process for the resolution of this issue than we are acknowledging in this debate today.

Firstly, the health professionals are overexposed on this issue. They are extremely overexposed, and we are leaving them many of the difficult and agonising decisions. We owe it to them to speed up our process on this matter. Secondly, we need to amend the enduring power of attorney quickly, if only - although we dispute it - to rectify the problems that one of the largest banks in this country has with it. Thirdly, we need to take into account the careful words of the Standing Committee on Social Policy in its report on the needs of the ageing. At page 66, the committee indicates that there is increasing concern on the issue and that the matter needs to be approached.

MR SPEAKER: Order! The time for the discussion has expired.

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

MRS GRASSBY: Mr Speaker, I present reports Nos 18 and 19 of 1991 of the Standing Committee on the Scrutiny of Bills and Subordinate Legislation and I seek leave to make a brief statement on the reports.

Leave granted.

MRS GRASSBY: Report No. 18 was presented out of session, on 1 November 1991, pursuant to the committee's resolution of appointment. Report No. 19 details the committee's comments on five pieces of subordinate legislation and four government responses to previous committee reports. I commend the reports to the Assembly.

ESTIMATES - SELECT COMMITTEE
Report on the Appropriation Bill 1990-91

MR JENSEN (4.27): I present the report of the Select Committee on Estimates, "Report on the Appropriation Bill 1991-92", together with the minutes of proceedings. Pursuant to the resolution of the Assembly, the Speaker authorised the printing and distribution of the report on 1 November 1991. I move:

> That the report be noted.

Mr Speaker, this is the third report of this type produced by the Assembly. It has been an evolving process over the last 2 years, and a process that I have been happy to participate in as the chairman of each of the three committees that have looked at the three budgets that this Assembly has produced. Once again we have seen a sterling effort put in by the Assembly committee staff, who have worked to tight deadlines, again coordinated by the senior

secretary, Ms Karin Malmberg. I would like personally to thank them all for their efforts in assisting us to produce the reports that you have here today. We all know the time constraints that the staff work under in these final months of this Assembly. The work that they have done is a credit to them.

Mr Speaker, the Estimates Committee is required to consider and examine a considerable amount of information. It is the role of the committee staff to ensure that this information is available to members in sufficient time for us to prepare for the long periods of public hearings. It is unfortunate, Mr Speaker, that some Ministers do not appear to consider the provision of information requested by the committee important. It often took weeks for this information to be provided to members of the committee.

Because of the budget timetable, it is important for us to have as much information as possible before the public hearing or at least on the day of the hearing. This allows members to complete their line of questioning and get to the meat of the problem being examined. Failure to provide this information until the day before the reporting date, as was noted in the report about information provided by the Chief Minister's Department - the department that has a section responsible for the overall management of the public service - was a most unfortunate state of affairs. That is why the committee has chosen to make very strong comments about this factor in the report.

In one other case, Mr Speaker, the committee received a response from the Minister for Urban Services in reply to a formal letter of 16 October following up a request for information. This letter was dated 14 November. I know that some information was provided to the committee initially, but it was a holding reply. The final reply was not provided until 14 days after the committee had reported and effectively been dissolved.

That, Mr Speaker, is another problem that was faced by this committee. It is a problem that I expect the next Estimates Committee will not have to put up with. I trust that they will receive a much better response than we did. It was for this reason, as I have already said, that we made some strong comments on the problem. The clear recommendation made by the committee was the need for five working days response time after the question had been asked. It is my view, Mr Speaker, that we should never get to the stage where the last part of that recommendation needs to be implemented, that is, five days before the committee is required to produce its report.

I trust that Ministers and their staffs will ensure that questions are answered promptly so that the committee can get on with the job. This will enable the committee to consider the responses in sufficient time to allow a decision to be made on whether to recall a Minister and his or her advisers. I put it to the Assembly and the

Ministers opposite, Mr Speaker, that there were a couple of occasions when, had we been provided with the information on time, there probably would have been a committee decision to recall witnesses to answer further questions. Unfortunately, the lack of information did not allow us to do that, because of the short timetable that we had.

However, on a positive note, there was a general improvement in the provision of information prior to the committee meeting, and the early establishment of the committee enabled us to decide what areas to concentrate on and to obtain additional information from the various program managers. I trust that they appreciated the additional time that they were given to enable them to provide that information for us. I am sure that this procedure reduced the amount of time spent in questioning Ministers and their staff, although, as the record will show, we did spend a number of hours - in excess of 70, I believe - questioning Ministers and their staff.

While Treasury did seek to ensure that such information was provided in a standard format, there is still a little more work required. It was unfortunate that the Health Department was still required to be prompted for some information provided by others; it was not in their information package. Last year, you may recall, Mr Speaker, the committee declined to question a Minister because of the failure of the Minister's department to provide information in sufficient time. While we did not quite get to that stage during these hearings, it was quite close on one or two occasions. There has been a gradual improvement in this area over the years and, while one does not expect perfection, we are moving slowly to a final solution to this problem.

Once again, Mr Speaker, we examined performance indicators. While there has been some improvement, insufficient information was provided on the achievement of these indicators when, clearly, they were able to be measured. One would expect departments and agencies to skite a bit when they were able to show that they had achieved their objectives, although it is important to ensure that the performance being measured is for real and not imaginary. We also felt, as a committee, that where changes in performance indicators were identified they should be stated. This, no doubt, would reduce the amount of questioning required.

Once again, Mr Speaker, the committee was frustrated at the apparent inability of the Government Service to come to grips with the attribution of costs and the devolution of funds to agencies for their share of the rents paid by government agencies. This has been a longstanding problem that has been looked at by three estimates committees. Last time it was a systems problem, as we heard many times; a little bit like comparing apples with oranges. We were able to solve the problem this time because information was provided that showed how the start and finish estimates

have been calculated. But the systems problem still seems to be there in relation to the issue of the cost to the various departments and agencies of their rental accommodation.

I suggest that departments and agencies that are required to justify the use of private accommodation may be a little more careful when spending their own funds. It is really time for the Government and their advisers to finally sort out this issue once and for all. I trust that we will not see a need for a further recommendation in next year's report - a report in which I hope to be participating in one way or another when the next Assembly commences.

One thing I am particularly concerned about is the apparent inability of the Ministers to say how they were going to save money from their salaries budgets. It seems that the knife was being put through all but two programs in this area, without any clear indication of where and when the cuts might be achieved. We were told many times that negotiations are continuing. However, as the end of the year fast approaches, my questioning during the estimates hearings, and the questioning of others, suggests that the Government may well find that it is unable to meet this large cut in its salaries budgets because the people expected to be gone are still on the payroll. We all look with interest at the budget and trust that the so-called cuts in administrative areas are not Clayton's cuts; that we are not seeing across-the-board cuts for the sake of making cuts rather than a fundamental reassessment of the staffing needs of the agencies.

Let me at this time make a comment in relation to one proposed cut that caused some consternation in this Assembly when we were sitting last time. I am referring to the cut in the section which licenses, monitors and advises on the provision of some 203 child-care services. The Minister seems to suggest, both in questioning during the estimates hearings and in the Assembly, that a cut in this area is not going to be a cut in their ability to deliver much needed services. It would seem that we have a small group of people who are required to monitor, license and advise some 203 services providing a large number of child day care places. It was proposed, as I understand it, to include another 80 child-care places in this area.

It is not just a simple matter of licensing; it is also a matter of monitoring and advising those 203 services. Information available to me suggests that any cuts in this area, which appear to be likely, may affect the ability of that group to deliver services. I think it is rather unfortunate if that is to be the case, because of the increasing need for this type of service within the ACT. I trust that the Chief Minister will respond to our final recommendation on this issue, that is, paragraph 3.102, in her response to this Assembly tomorrow.

This brings me to my next concern. It was most perplexing to receive very negative responses from both the Health Minister and his colleague the Minister for Housing and Community Services about the lack of proactive rather than reactive planning for the provision of health and welfare services in developing suburbs. It seemed that every way I turned I received the brick wall approach. Some of us may recall a very famous cartoon in the *Canberra Times* about a Minister answering questions about a certain subject. We could have redrawn that cartoon and just added a couple more names, because they were the sorts of answers that we were getting to questions in this area.

Already a large number of families are moving into these developing areas, particularly in South Tuggeranong, and the budget provides no apparent funds for much needed community facilities. It seems that the developing areas of South Tuggeranong in particular are not going to get the sorts of facilities that have been provided in some of the other parts of Canberra.

Frankly, this is just not good enough. The community is fully aware of the needs in these areas, as we have all been there before. I can see the advisers within the bureaucracy and I am sure that they, as well as the Minister, know the problem. It would seem to the Rally that such problems are being put into the too-hard basket. I hear the cries from the Minister opposite. I hope that the Minister is going to tell this Assembly what he proposes to do about the provision of child-care services beyond Calwell in the South Tuggeranong valley.

There was not one mention of that in any of the information that was provided to us, and, frankly, Mr Connolly, that is not good enough. It does not have to be in the report, Mr Connolly; I am putting it to you right now. While some additional funds may be required at this stage, there will be an overall and lasting drop in the health and welfare budget as the problems of families in developing areas are managed much earlier and at a much lower cost. Short-term savings will generally produce longer-term problems with a higher price tag.

My colleague Mr Collaery will make some comments on the Bruce Stadium. However, I recall standing in this place in the first months of this Assembly and speaking about the stadium. I quote from *Hansard*, page 323, where I said:

> It would be most unfortunate if we in the ACT found ourselves saddled with the cost of running what is really a national facility. It is a national facility, Mr Speaker, that should not be allowed to become a millstone around the neck of the ratepayers of the ACT, especially when the proposal seems to suggest that major changes will be made to the stadium to prevent the sort of activity for which it was designed being conducted.

That was from *Hansard* back in 1989. I am sorry now that I have to say, "I told you so". The return of the facility to Mrs Kelly, especially as we do not appear to have a proper lease from the Commonwealth, is probably the best option for the ACT. It would seem that the statements by Mrs Kelly along the lines of "Haven't we got a deal for you" are something we could well have lived to regret. So, with those brief comments about the Bruce Stadium, Mr Speaker, I would like to close my remarks and commend the report to the Assembly.

MR KAINE (Leader of the Opposition) (4.42): I think that Mr Jensen, as chairman of the Estimates Committee, has quite fairly dealt with the subject matter, in particular the processes through which the committee went. He has commented on one particular aspect with which I agree, and that is that in some cases I believe that the committee did not get comprehensive and adequate responses to its questions. The most blatant case of that, of course, was the Minister for Health, although I notice that Mrs Grassby tries to refute that.

Some particular matters arising from the Estimates Committee inquiry concerned me, and I will deal with them quite quickly. I do not think I need to take up too much time. The first and most important of those, I think, is the question of the funding of the private schools. There is a very real concern out there in the private schools community that they have been badly treated in this budget, and I think there is little question that they have.

The problem stems not so much from the Government's decision to reduce the funding; that is a legitimate decision of government when they are in a tight financial situation. I do not argue with that. But I think it can honestly be said that the schools were not consulted on this matter, and this, from a government that claims to be consultative, simply is not good enough.

To impose massive cuts on the schools funding without talking to them first, understanding what its impact on the schools is going to be, and how they are going to operate with such a massive reduction in one year in their funding is simply not good enough. I think that that exemplifies some of the aspects of this budget that we are considering; that there is an element of arbitrariness about it. It is not something that has resulted from the community consultation process that this Government claims. In fact, it is quite the opposite.

The second case of that, I believe, is that relating to the Tourism Commission. Here we are in a recession - everybody now acknowledges that that is the case - and tourism is our strongest industry. It is the one which probably creates more jobs than any other industry in Australia. One would think that in such tough financial and economic times the Government would be doing everything in its power to boost

tourism; yet what do we see? The one industry that is capable of maintaining some level of stability and continuing to produce jobs and continuing to produce revenue for the Territory is the one which takes a massive cut in its funding.

I know that it can be argued that there was a $1m one-off provision there that goes back two years, and that at some time in the future it might have been arguable and justifiable that that $1m should be removed from their budget, but hardly this year. I think that is where the Government has failed. In this year, of all years, the Tourism Commission should have been left to get on with its job. What we have seen as a result of that massive reduction in funding is that a very competent executive officer is lost to us, apart from anything else. The tourism industry seems to be somewhat in chaos because they do not know where their future lies, or to what degree this Government supports them - and words are not good enough. There has to be some action that supports the words.

I guess the next problem that concerned me, Mr Speaker, was the obfuscation on the question of consultants. This Government has said that it is reducing the use of consultants this year by 25 per cent. It is very hard to prove whether that is true or untrue, because when you look at the budget you find the words "consultants" and "contractors" used almost interchangeably, and they are not the same thing. You never can be sure whether consultants and/or contractors are being used to supplement staff or to replace the so-called staff reductions that are alleged to be on the books. One finds it very difficult to find out just what the ultimate objective is, what the cost reductions are, if any, to the taxpayer, and how it is all going to work out at the end of the year.

The use of consultants must relate to your staffing formula, and very often there was a suspicion that staff are letting out to consultants and contractors the very work that they themselves should be doing, and that all the staff is doing is supervising consultants. I think it is an area that requires further attention. The Estimates Committee concentrated on that as one of their specific areas of review this year and I think it is one that we will probably look at again next year to see how it all worked out.

I think the most vulnerable area in the Government's budget is the health budget. I have said before, and I will say it again, that I think this budget is a fragile budget; but the most fragile part of it is the health budget. I suspect that it is already beginning to fall apart. It is obvious that Calvary Hospital is struggling to maintain services within the allocation that has been made to them. There seem to be difficulties at Woden in coping with the transfer of functions from Royal Canberra Hospital North to the Royal Canberra Hospital at Woden.

I think we are going to see continuing difficulties in the health area and that, I believe, for every citizen of Canberra is a matter of some concern. I am not denying that the Government is probably just as concerned about it as we are; but I think that the massive cut to the health budget, and it was a massive cut, while the Government may have thought it necessary, is one that is going to have a major impact on the community before the year is out and, indeed, in subsequent years until we can pick up the damage that has been done.

The police budget, I believe, demonstrated a certain amount of indecision on the Government's part. Again, I do not dispute the right of the Government to make a cut in the order of magnitude that they did in the police budget. I had said publicly that I did not think that the police function ought to be quarantined from budget decisions; but it would seem, now that the dust has settled and it has all been sorted out, that had the Government been more specific about how it expected the $1.2m cut to be put into effect the Police Association would not have reacted the way they did and they would have simply got on with the job. There was a difficulty precipitated there, again, I believe, by virtue of a lack of consultation with the involved people as to what was expected.

Mr Jensen has talked about the Bruce Stadium. I think there is continuing concern about the fact that we do not have a good contract with the current occupants of the Bruce Stadium. It has yet to be resolved. We have a contract that really is not a contract. Of course, the inevitable question always is: Where did the $1m go and when are we going to get it?

One other matter, Mr Speaker, is the question of the Social Policy Branch, which is specifically mentioned in the report. I think that it is a matter of some concern when a Social Policy Branch becomes an implementing branch. The Government has transferred functions such as youth operations and Streetlink and other operational-type functions into what is essentially and ought to be a policy branch. The staff and line functions do not mix.

It is inappropriate, in my view, to build up an organisation like this. It becomes, if you are not careful, an empire in its own right. The fact that it is a policy branch carrying out some of these functions means that it begins to second guess other people out there whose job it is to implement policy to duplicate what they are doing and it becomes wasteful. I think the number of positions in this policy branch on which the Estimates Committee had some comment to make perhaps demonstrates the fact that it already sees itself as something larger than life and bigger than a policy branch.

In conclusion, Mr Speaker, I would like to refer to a couple of comments that Mrs Grassby made in her dissenting report and which I believe were quite gratuitous and uncalled for. She says, for example, that the majority of criticisms can be seen as "clearly political in nature". I would refute that. I think the Estimates Committee processes were carried through in a non-partisan way. For Mrs Grassby to inject the partisan philosophy in her dissenting report, I think, is uncalled for.

She says that some of the things were factually incorrect. In her statement she rejects the assertion that the Minister for Health chose to avoid answering direct questions. The committee was factually correct. He did it in the Estimates Committee and he does it on the floor of this house. That is one of the reasons why he is not sitting there now. For Mrs Grassby to assert that that is not factually correct is, of course, not factually correct.

In her gratuitous comments she says that the committee does not appear to know the meaning of the word "equity". For a government to implement an inequitable decision in connection with the three private schools and then accuse the committee of not knowing what equity is, I think, a little ironic, to say the least. I think that Mrs Grassby's comments, regrettably, add nothing whatsoever to the debate.

MRS NOLAN (4.52): Mr Speaker, this year the Estimates Committee found their task, I believe, a mammoth one, particularly because much of the information requested from the Ministers and officials was not readily available. In many cases that information was not received until the report was almost finalised. I will elaborate further on that a little later.

Because of the short timeframe available, the committee's report has not addressed specific areas in perhaps the detail some of us consider necessary. That only some areas have been addressed in the report in no way reflects the committee's concerns or individual members' concerns regarding areas other than those appearing in the report.

One particular concern of mine and other members of the committee, as I mentioned earlier, was the inability to recall witnesses. This certainly should have been done with regard to the tourism portfolio. However, answers to questions taken on notice were not received until the day before the committee's reporting date, which I and, I think, the entire committee consider to be most unsatisfactory. This concern was specifically addressed in the report, and I refer members to paragraph 3.19.

In the short time available for me today I would like to address specifically three areas where I believe the budget will greatly impact because of the reduced funding levels. They are the areas of tourism, non-government schools and policing. I must also mention an area where I believe the Government could make substantial savings, and that is

corporate services. In particular, the rental paid on some of the buildings occupied by the ACT Government and the long time in which buildings sit unoccupied should be reviewed.

At a time when the ACT Government is reducing funding available to many sectors in the ACT - in particular, health services, tourism, education and policing - I question the fit-out of ACT Government accommodation in 1990-91 which totalled $8.7m. Two buildings alone cost over $1m apiece - the Grace Bros building at $1.78m and the Centrepoint building at $1.24m. While I have always supported decentralisation of office accommodation, particularly to the Tuggeranong Town Centre, I am concerned about the location of the Office of Sport and Recreation in Tuggeranong. It was located at Tuggeranong at a cost in 1989-90; now, in 1991-92, it may be relocated back to a more central position. It seems to be an enormous waste of dollars.

I believe that a better overall long-term strategy, carefully determined, regarding accommodation and fit-out for the ACT Government Service would not only produce savings of a considerable nature but also alleviate compensation pay-outs, as in the case of the closure of the Melbourne Tourism Commission office. That office had a 10-year lease and we may well see at least a year's rent paid out as compensation to terminate that lease.

There is no doubt that business is now done differently regarding national destination travel and that the two Tourism Commission offices in Sydney and Melbourne are no longer an essential marketing tool; but to rely on the savings from rental for marketing in the short term in this financial year is hardly a sensible and appropriate course of action. To announce closure of the offices at the end of this month, when to date the final outcome is still not known, is totally wrong. What will be the total dollar figure for redundancy pay-outs to staff from the two closed offices? However, Mr Speaker, I must say that I support fully, and I really thank the Government for at least giving consideration to, those redundancy pay-outs coming from the Chief Minister's Department rather than the tourism portfolio or the tourism budget.

Tourism is our major employer in the ACT. The industry is employing some 8,000-plus people. At a time when other States are increasing tourism budgets, the ACT sees a need to reduce theirs by $1m. That $1m would have seen a significant increase in visitor numbers and an increase in the number of employees at tourism establishments. It would have particularly benefited the employment prospects of the youth in this city. They need encouragement, with youth unemployment in the ACT running as high as it is.

In question time we heard just what that rate is today for youth unemployment. Chief Minister, you criticise Brian Howe strongly for saying that the heat is on State and Territory governments to prove their commitment to increasing employment. Jobs, particularly for young people, are needed. Funding for tourism is not to remain as it was last year. The Government could immediately reinstate that tourism funding to last year's levels and do something positive to increase employment.

Mr Speaker, the committee's report, on page 17, addresses concerns relating to consultants, particularly those used where Government Service employees should have been able to perform the function. There was $15,000 spent on the preparation and management of information about the 1991-92 budget. That function could have been carried out by the Public Affairs Branch. Again turning to the tourism portfolio, some of the concerns relating to staff selection consultancies are detailed at page 18 of the report. Community health services and, in particular, the public health concerns are also well documented in the report, as is the Health Promotion Fund on page 21.

The reduction in funding to the three non-government schools should be reversed. Not only has the Minister not visited the AME School, or he certainly had not when he appeared before the committee, but also, in terms of notice given to schools and parents, it was totally inappropriate. I appeal to the Government to support the funding reinstatement recommendation listed at recommendation 3.64 in the committee's report.

Regardless of the police Minister's statement that the cut to policing is a very modest $1.2m, or 2.25 per cent, it is quite substantial. The committee considers that the reduction may not be in accordance with the agreement with the Commonwealth, and I totally support the recommendations on page 24 of the report. Negotiations must continue with the Commonwealth as the Commonwealth must fund more than the 88 positions out of the 706 police positions in the ACT. We are all aware of how often the policing role is performed for the Commonwealth.

Mr Speaker, in conclusion, I consider that the committee has identified certain areas of major concern, although, as I said at the outset, there are other concerns. Unfortunately, time does not permit me to elaborate on them. I have not even mentioned the health portfolio and the problems associated with getting accurate information or the ramifications of the budget reduction in funding. We have seen many examples of that over recent weeks. Mr Speaker, my thanks go to the committee chairman, to those members who participated in the committee's deliberations, to the committee secretary, Karin Malmberg, and to all the committee office staff and *Hansard* staff. I commend the report to the Assembly.

MR COLLAERY (4.59): I mirror those thanks that Mrs Nolan mentioned. I am going to restrict my comments, Mr Speaker, to one or two areas. Firstly, the health culture, as I saw it, was quite apparent to me. Some of us were quite concerned about a number of issues in the health area. I will concentrate on only one. I am concerned about our methadone program. I am concerned about the capacity of that area to accommodate any innovative programs in the drug and alcohol area. I am concerned about waiting lists in the area. I am concerned about a lack of dynamism. I am very concerned to see that our methadone dispensation arrangements are really not acknowledged as being behind those of other States. They are conservative. They are not appropriate.

I believe that there is a great deal of devotion in that area, but I think it is showing signs of burnout. I commend to the Chief Minister an early look at the methadone program because that might well be the area where eventually, if carried out, the opiate trial will be placed. I would think that we would need to think very carefully about placing it in that area as presently staffed. I was also concerned very much by the training section we discovered in Endeavour House, Manuka. I think the committee's report says it all and I commend attention to that issue.

Mr Speaker, when the Appropriation Bill comes up we will say more about the non-government schools funding decisions and, of course, I have said it all on the police funding. I do not, with respect, agree with Mr Kaine's comments in relation to the acceptability of the cut. I have explained that elsewhere, in an article in the *Canberra Times.* I will not bore the Assembly by repeating it.

I want to move to a more notable issue, and that is the inability to extract from Mr Berry any information on the Bruce Stadium matter. I have some prepared comments and I propose to read them into the record. The most notable issue surrounding the move by the Raiders football team from Seiffert Oval at Queanbeyan to Bruce Stadium in the ACT is the lack of information given to the public, then and now. The origins of the Bruce Stadium affair predate self-government and there is a deal of documentation and oral history which reposes still with current and former Federal Ministers, their departments and advisers. The Bruce papers also throw light on the management style of the Canberra District Rugby League Football Club Ltd.

As Minister, I called for all the papers relating to the making of an agreement with the Canberra Raiders for the use of Bruce Stadium. I insisted on seeing the actual files. The documents which were collected for me by my then Law Office appeared to have originated in the then Office of Industry and Development. The ACT Government paperwork seems to have its origin in the OID under its then responsible Minister, Mr Paul Whalan. The merest analysis will show that the papers were incomplete.

The papers lacked the usual phone messages, odd comments, notes, aides-memoire, records of phone conversations and the like. Those papers, if they ever existed, were never located, so far as I can determine. It was apparent to me that a good deal of oral history went with the outgoing former Deputy Chief Minister, Mr Whalan. Much of what we still need to know will be revealed only by oral testimony and examination.

From the Territory's point of view, recorded history starts with a news release by the former Minister for Arts, Tourism and Territories, the Hon. Clyde Holding, MP, on 3 May 1989. The Minister announced the engagement of Price Waterhouse, chartered accountants, to negotiate on behalf of the ACT Administration a financial arrangement with the Canberra Raiders for the long-term hiring of the national outdoor stadium at Bruce.

The Minister referred in his release to the finalisation of financial arrangements with the Raiders as being an important step in ensuring the successful relocation of the Raiders to Bruce for the 1990 football season. The Minister advised that, to allow the Raiders to move to Bruce, an undertaking was given that the stadium would be redeveloped to make it suitable for rugby league and other field sports and that athletics facilities would be provided by upgrading the existing athletics warm-up track to a national standard facility. The Minister added that it was proposed that the ACT Administration would lease the stadium from the Australian Institute of Sport, and that negotiations on the terms and conditions of the lease were well advanced.

Significantly, the Minister advised that not only would the Raiders have a greatly improved home ground but also it would be possible for other field sports to make use of this community asset, and that the ACT athletics community would have access to a national standard athletics field with a new grandstand and associated administrative facilities. Members will recall that these announcements were made seven days before the swearing-in of this Assembly and the day before the poll was declared. It was clear at that time to all observers that the ACT Labor Party had not won office in its own right.

On 5 June 1989 Price Waterhouse responded to their appointment of 3 May 1989 in a letter to Mr Peter Conway, acting director of the ACT Office of Sport, Recreation and Racing. Price Waterhouse advised that, on the instructions given to them at the time of their appointment, they were to ensure that sufficient income needed to be generated from the Raiders and other sources to cover the operating costs of the trust which would be set up to administer the stadium. Price Waterhouse advised:

> We were not to concern ourselves with the recoupment of the capital cost involved in the exercise other than obtaining a contribution of $1m from the Raiders/New South Wales Rugby League.

In other words, the Territory never intended to recover the capital cost, nor did it intend to set the arrangement up on a normal commercial basis. The public was never told this.

Price Waterhouse then advised that protracted negotiation with the Raiders had culminated in the Raiders producing a document which Price Waterhouse recommended be the basis of any agreement entered into between the Raiders and the Administration. The consultants further advised that in negotiating with the Raiders they had taken the view that simplicity should be the watchword and that they had endeavoured to put into place arrangements which are easy to understand and control and to avoid the need for detailed checking or audit. The consultants further advised an estimated trust income for the first year based on projected crowd sizes of 10,000, 12,500, 15,000, 17,500 and 20,000, with a gross revenue varying from $240,000 a year to $348,000 per annum.

On 26 June 1989 the agreement between the ACT Government and the Canberra District Rugby League was signed. My then Law Office did not locate for me any copy of the agreement which had been signed on each of the 15 pages and annexures. In legal terms its execution was somewhat irregular. On 25 July 1979 Mr Whalan, under questioning, revealed in this Assembly, in response to a question, that the arrangement had been finalised.

One of the estimates available to me as Minister some two years later was that the Raiders would secure approximately $2.4m gross revenue per year and that the ACT Government would get $310,000 of that, and that is all. I have been to most rugby league games at the stadium, and crowd sizes, to my personal knowledge, have varied from some 22,000 downwards.

Other records now indicate that the subsidies subsequently provided to the Bruce Stadium trust, as it was called, to enable it to operate in 1990-91 and 1991-92 were in the region of $568,000 and $648,000 for each of those financial years. In each of those years sums of $218,000 and $368,000 respectively were allocated from the ACT budget by capitalising debt servicing interest payments rather than a direct payment to the trust account. They were, nevertheless, a subsidy in that sum.

The public have every reason to ask how, for the period 20 September 1989 to 30 June 1990, the trust sustained an operating loss of $2,007,590 based on a profit and loss statement submitted by the ACT Auditor-General to me, as former Minister, on 13 May 1991. The Auditor-General gives the estimated opening written down value of the stadium

deemed to have been handed over on 1 January 1990 prior to renovations at $13,432,000, and the estimated value of capital improvements to the stadium, funded by the ACT Government during that period, was $1,850,000, bringing the written down value at 30 June 1990 to $14,900,000.

As well, the trust controlled eight hectares of land within the Bruce complex, mostly for parking, valued by the Auditor-General at $2,080,000. At the same time, the total spent on upgrading the stadium during the period was $3.7m. I seek an extension of time, Mr Speaker.

Leave not granted.

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

> That so much of the standing and temporary orders be suspended as would prevent Mr Collaery from being granted an extension of time.

MR COLLAERY: I thank members on this side of the house. Of this sum, approximately half was estimated by the Auditor-General to have been spent on repairing the existing facility when it was handed over. This 50-50 split was agreed by both trust management and the Australian Valuation Office to be a realistic assessment of the actual expenditure.

An aspect of the agreement reached with the Raiders was that the Raiders would contribute $1m towards the $3.7m cost of renovating and establishing the stadium. In other words, the Bruce trust owes a notional sum of $2.7m, which was originally made available on an interest free basis, and subsidies of $200,000 in 1990-91 and $100,000 in 1991-92 were to be made available to the trust to assist in the payment of interest commitments.

Despite Mr Whalan's confident advice 18 months earlier, the Alliance Government was advised in December 1990 that the trust would be unable to meet all future liabilities without assistance. Accordingly, the Alliance Cabinet agreed to the deferral and capitalisation of the interest payments due on the $2.7m loan in 1990-91 and 1991-92, but only after the application of interest subsidies to meet outstanding operating liabilities. No interest was payable in respect of the earlier 1989-90 financial period.

The Auditor-General has also observed that since $1m was paid out by the ACT Government during the period to upgrade Bruce, over and above the $2.7m loan, this had the effect of providing the trust with a $1m loan free of charge. The $1m sum was, to quote from the terms of the agreement negotiated between the parties, to be paid by the Canberra District Rugby League Club under the following terms:

> The Raiders undertake to contribute the sum of $1m for the upgrade provided the money is utilised for rugby league purposes and that it is understood that timing and contribution of such sums is dependent upon the New South Wales Rugby League making those funds available no later than 31 December 1990.

If the bush lawyers in this Assembly could see how you could drive a truck through the terms of this agreement, they can imagine what the wording of the rest of the agreement was. However, I shall return to that legal analysis in a moment. Members are aware of how $1m was paid into the AIS trust fund following discussions with the member for Canberra, Ros Kelly. The public now has a legitimate reason to ask where the $1m is and why it was allowed to go back to the New South Wales Rugby League.

At this stage, listeners may be forming the view that the Rugby League has been the beneficiary of an extremely generous arrangement. Certainly, the document recommended by Price Waterhouse to form the basis of an agreement became literally the agreement and, on the advice available to me informally and from the Territory Solicitor, a legally binding agreement had been entered into. Certainly, the Territory performed its side of the agreement and the league did not. It is as simple as that.

The $1m was payable on completion of the upgrade, but such payment could be deferred until 31 December 1990. It did not necessarily follow, in my view as Attorney, that the $1m was not due and payable until a final agreement had been resolved. In my view, this latter argument was a polemical device used by the league to dodge payment. Members should recall Mr Whalan's advice to the Assembly on 25 July 1989 that "one group which has finalised an arrangement with the ACT Government ... is the Canberra Raiders".

The first challenge facing the Government after the Raiders defaulted on 31 December was to claim, in effect, a fundamental breach of the agreement. Correspondence took place. Members are aware of some of those details. In a nutshell, what we have on our hands is an agreement made without legal advice from the Government's point of view. The agreement was not submitted to the Government Law Office, nor do the records reveal that legal assistance was sought by the then Government. In legal terms, the agreement can only be described as quaint. For example, clause 10 of the agreement was headed "Legal Matters". It reads as follows:

> It is understood that within the context of this agreement that should any legal matter arise that obstructs the basis of this agreement being complied with, for whatever reason, the Raiders retain the right to vary the income offered herein to the Trust downwards by the amount by whatever such obstructions are imposed upon the Raiders.

Clearly, the document was drafted not only without legal advice but in a culture dismissive of lawyers. This provision, along with much of the agreement, is extraordinary. In my own practice as a solicitor I have never seen anything quite like the agreement. It is comprehensively one of the most extraordinary agreements I have ever read. It not only extends a legal notion of contract into unprecedented folklore but also extends the English language. John McIntyre wrote on 15 March 1991 the following:

> ... what seems totally forgotten is why the Raiders moved to Bruce Stadium. For the record, we were approached in the mid 1980s to move to Bruce Stadium because of the losses being incurred at the site and its lack of use; it was agreed that the overriding basis for the Raiders to relocate would be that the Raiders would have total marketing rights for the ground and for which the Trust (or whatever) would receive a % of the income. This critical fact, a major theme which is right throughout the 1989 agreement, seems to have been conveniently forgotten by the Territory ...

and so on. Some may say that the Raiders have been damaged by their move to Bruce, both commercially and in their orientation. The fact is that this agreement was driven by the Labor Party for the political spin-off. They sent the Raiders out to Bruce on a blind date and are not prepared to tell us in the Estimates Committee what the upshot is. Ros Kelly and Clyde Holding sent the Raiders to a stadium which had been virtually unused for 10 years. The Vikings were asked to replace a white elephant. They have simply not been able to do it because the whole process is non-commercial.

MR SPEAKER: Order! Mr Collaery, your time has expired.

MR HUMPHRIES (5.14): Mr Speaker, I think this Estimates Committee report is quite significant. It certainly goes rather further in many respects than estimates committees in the past have gone, and I think for good cause. In particular, Mr Speaker, some quite serious criticisms are levelled at Ministers in the ALP Government, which simply cannot be ignored. Indeed, I would go so far as to say that, if they are ignored, successfully at least, then the institution of democracy as we know it will be in some way affected.

I make that charge without any sense of hyperbole, because I believe that in many respects the attitude exhibited by some Ministers in this Government towards the Estimates Committee and the process it represents was quite pathetic. It represents a serious incursion into the idea of a government being accountable to the Assembly and to its committees in the work that it does.

It is a pity, in particular, that Mr Berry is not here to take part in this debate. It is, of course, his own fault that he is not here and I am not about to let him out of gaol just yet; he has another 15 minutes or so in the sin bin. I am sure he will have plenty to say when he gets back here.

The contemptuous attitude which this Government has shown towards the Estimates Committee was exhibited in two ways in particular. I recall, for example, that Mr Connolly faced considerable difficulties in the previous sitting week due to comments that he had made to the Estimates Committee concerning day care for children. I will not go back over that ground; but it certainly indicated, at least in the minds of some members of this Assembly, a regrettable attitude towards the Estimates Committee and its work. I, of course, have more interest in the comments of Mr Berry and his attitude towards the process of debate in the Estimates Committee.

I think, Mr Speaker, that the words used in the Estimates Committee report are very strong and should not be lost on this Government. Those words, and I quote them from paragraph 3.48, are:

> The Committee was concerned that in this area -

that is, monthly reports in the area of health -

> where considerable financial problems have been identified in successive years, the Minister for Health chose to avoid answering direct questions on the financial control and management of the health budget. The use of such "stonewalling" tactics makes the work of the Committee almost nugatory.

Those are exceedingly strong words, Mr Speaker. He chose to avoid answering direct questions on the financial control and management of the health budget.

Mr Collaery: And Bruce.

MR HUMPHRIES: Indeed, and many other areas. I mention only an area of particular concern to me. The fact of life is, Mr Speaker, that we have faced extreme difficulties in the area of health - goodness knows I can say that in this place - and we are entitled, as an Assembly, because of that, to know what is going on in health, even if the Minister does not. That is the point of that comment in the Estimates Committee report. It is the point of the questions that were asked of the Minister in the Estimates Committee and which were, as the report clearly shows, simply not answered, either because the Minister chose not to answer them from a political point of view or because he was not able to answer them.

The committee, for example, was gravely concerned about the fact that the Minister made a great show, in the early period of the Government, of being prepared to make available to members of the Assembly monthly reports on progress in the hospital budget and suddenly - indeed, while the Estimates Committee was sitting - decided that there ought not to be a continuation of this practice. That, Mr Speaker, is symptomatic of the whole process we saw coming from the Minister for Health, which was that it is better to say nothing and not be found out than to say something and risk being hauled up later on for misleading or saying something inaccurate. I have to say, Mr Speaker, that that attitude leaves the Assembly and its processes very much in the dark - a very sad and regrettable state of affairs, given the serious problems health has faced in the last few years.

Mr Berry is on the record as saying a number of things in the area of health which it appears were not sustained when he appeared before the Estimates Committee. In particular, I think members will clearly recall Mr Berry saying many times that the previous Government, the Alliance Government, had done nothing about financial management problems in the Department of Health. That was not a single statement; that was a statement repeated over a number of months, particularly during the period when we were in government. I have press statements which have him repeating those very words. I will not quote them, though.

I therefore set out to ask Mr Berry's officials in the Estimates Committee just what had been done in the course of this financial year to remedy problems in the financial management systems of the hospitals. I asked Mr Woods, who appeared for the Health Department, a number of questions about that. I asked whether he could detail the upgrading of financial management systems since April 1991.

For the benefit of the committee he went through a very long list of all the very extensive changes being made by the department at that time, including the appointment of a chief finance officer, steps towards appointment of a chief executive, the establishment of Fiscal as the basis for accounting in the hospital services area, which had not been done previously, recognition that there should be an early introduction of that system, restructuring of the corporate management team, a project officer being instituted from May, et cetera, et cetera. All those things were commenced - and I asked this specifically - since May of 1991 and before the change of government in June.

Having asked those questions and established that there were many such things, I then asked this particular officer of the department whether it was true, therefore, that there had been no action on the part of the previous

Government to deal with those financial management problems. The officer was quite forthcoming. Indeed, Ms Biscoe, the head of the department, was also forthcoming in saying that, apart from two things, there were no other things that had been acted upon as a result of that report.

I put to those witnesses the very statement that their Minister had made concerning financial management, that is, that nothing had been done by the previous Government. Needless to say, Mr Berry intervened very quickly to prevent those officers from answering that question. That incident, Mr Speaker, is typical of the process that was endured by members of the Estimates Committee during that time - a process aptly described in the report as stonewalling.

I want very briefly, Mr Speaker, to go to another area - non-government education. I take very seriously indeed, perhaps more seriously than anything else appearing in this Estimates Committee report, the recommendation at paragraph 3.64 which urges the Government to speedily complete the review of recurrent funding and per capita grants to the non-government education sector and also to reinstate the funding for the three non-government schools pending appropriate consultation and negotiation on future support.

That recommendation was not made lightly by this committee. It was a matter of grave concern to all the members of the Estimates Committee and, Mr Speaker, it was one that was taken in contrast to our Government's original decision on non-government school funding in consultation with the non-government school community. That is the difference, Mr Speaker, between our approach and Labor's approach on that matter. The great consultative government did not actually get around to any consultation on this particular issue.

We were concerned enough to believe that because of the absence of that consultation there ought to be some reconsideration by this Government of their decision, at least while they are awaiting the result of the review that Mr Wood referred to in his evidence. It would seem to me imperative that there be some attempt to address those real concerns about funding, the appropriateness of funding categories, and so on, before a decision as drastic as this, affecting those non-government schools, is made and implemented.

They were, as we pointed out in the Estimates Committee, quite heavily affected by having a plan, a projected expenditure plan, for 1992 disrupted by the Government's own decision, which of course went against a promise they were relying upon, a promise by the Minister himself, with respect to continued funding at existing levels. I think, Mr Speaker, that the arguments there are quite compelling, and I sincerely hope that the Minister reconsiders his decision.

As I indicated at the beginning of my remarks, Mr Speaker, if the government, whether this one or any subsequent government, ignores the implications of this Estimates Committee report, I think the institution of accountability by the Executive - responsible government, it is called - will have been seriously eroded. Many responsibilities**,** or burdens, have been placed on government. It was felt by the Estimates Committee that they were not honoured in this particular case. Information that ought to have been provided was not provided to the Estimates Committee. I sincerely hope, Mr Speaker, that this is the last time any Estimates Committee needs to make that criticism of any government in this Assembly.

DR KINLOCH (5.24): First of all, I want to endorse Mr Humphries' remarks, especially on the non-government schools. I will not now go on about that; I just want to underline it 15 times.

I would like to return to the question of Vikings and elephants. The Vikings were asked to replace a white elephant. They have simply not been able to do it because the whole process is non-commercial. It has been premised on a deal between mates in the terms outlined by Mr McIntyre. The deal leaves this Territory with a legacy of a 20-year contract with the Raiders, locking us into a $6.5m capital expenditure, consisting of $2.8m on upgrading the warm-up track for the Institute of Sport and $3.7m on the stadium itself. I must say that I remember with sadness that that whole stadium was once a wonderful athletics track.

That amount could be reduced by $1m if the Rugby League honours its agreement. Nevertheless, the real legacy is the long-term recurrent cost to our community for the league-dedicated stadium. It costs just under $1m a year to operate the stadium; that is, about $950,000, made up of $531,000 in operating costs and $419,000 in interest payments. After deducting payments from the Raiders of approximately $300,000, and applying about $30,000 other revenue, this leaves an operating shortfall per annum of some $620,000. This calculation ignores the fact that the money we spent converting the warm-up track was effectively a premium paid to the Australian Institute of Sport for vacating the main stadium.

I do remember with sadness, Mr Speaker, that that was once a wonderful track for the World Cup. In other words, it was part of the price we paid for the white elephant. Normal commercial procedures would suggest that on this basis we could assume a return on capital, and if it is 14 per cent it means that the stadium ought to be returning a further $392,000 per annum. On that basis - wait for it - the true loss is nearly $1m per annum. The Follett Government's advice on 23 May 1989 to the Assembly that "the relationship between the Canberra Raiders and the Bruce trust will be a commercial one" grossly misled the people of this Territory.

There has been, and will be, a sustained long-term loss to the Territory which practically exceeds most of the new sports grants per annum. Political imperatives have resulted in an inequitable division of government money for sport in this Territory. Never again should political pork-barrelling dictate the division of funds for sport. I trust that the initiatives taken by Mr Collaery, as Minister, for there to be an independent body to advise and assist in a politic hands-off situation and for sport to gain the right to self-determination will be carried through.

In the Rally's view there must be an early and public inquiry into all this as soon as possible. The evidence is available not only from within the Government, but also from outside government, from Federal officials and from the Australian Institute of Sport. It is interesting to note that, because of the delay caused by the ACT Government in completing the upgrade of the warm-up track, the AIS had to cancel a meet. This cost sponsorship for an Australia Day sports carnival in the sum of $29,000, and had other implications. The AIS may wish to speak about what the arrangement has meant to it.

Alas, the rugby league players seem to have been the pawns in the whole affair. Members should speak privately to those players. It is illuminating to find that the push to go to Bruce did not come from the players, the other victims in this affair. I wonder whether most of them would not have liked to stay in Queanbeyan.

In conclusion, this affair was managed by the Labor Party, which has failed before the Estimates Committee to explain the full financial implications for the Territory. This same party must be judged at the forthcoming election on its lack of candour and its apparent financial irresponsibility.

MR STEFANIAK (5.29): Mr Speaker, firstly, I might anticipate Mrs Grassby and her dissenting report. Mrs Grassby, of course, being a government member, a loyal comrade, naturally you would expect her to put in a report such as she did. I do not think I need say anything more in relation to that.

There are a couple of general points I would like to raise. Firstly, the ACT, as a self-governing entity now, is going to have to fight a lot harder for our true share of Commonwealth funds. The ACT has a special position amongst the States and Territories of the Commonwealth because we are the seat of the national capital, and the Commonwealth Parliament should never ever be allowed to forget that. That means that the ACT has special responsibilities and special rights to funding that differentiate it from the other States.

Any Territory government has to be very vigilant in fighting for our Territory's rights. I think all governments to date have been a little tardy in relation to that - both Follett Governments and the Alliance Government as well. Any future government is really going to have to take the gloves off and get in there and fight for the ACT, because that is crucial to our funding.

Secondly, because our funding is being reduced, because we are in difficult economic times and because the ACT does not have natural sources of wealth such as some of the other States have, any government has to prioritise, and I do not think that this Government has done a very good job of that. A budget has to be prioritised between the must-haves and the can-haves. There are still quite a few can-haves in this current Follett Government budget, which might have been fine if the Commonwealth was providing fully for the ACT but is simply inappropriate when we are looking after ourselves.

Mr Speaker, when I come to must-haves and can-haves, let me say this: The Government has increased a couple of areas, one in a very minor way. I do not have a problem with that; it is minuscule. That is the area of sport. In fact, I commend them for that because that is basically just in line with a commitment we gave some 12 months ago. But they have a significant increase in housing, and I will come back to that because I think a couple of things could and should be done by future governments to cut costs and ensure that ACT housing is rationalised. Some rationalisation can still occur, despite Federal and State government agreements.

One of the main areas where this Government really has stuffed up in a monumental way is its handling of the police budget, and I will concentrate on that initially. This budget stated that there would be a 2.25 per cent cut in police funding. The Estimates Committee, on Friday, 27 September, I think, quite clearly showed that that in fact was not an across-the-board cut; it was a cut coming from the area of the budget under the control of the ACT. That was the operational budget. Three months into the financial year, it was about $8.5m - normally about $10m for the full financial year - and there was a further $240,000 from the corporate services area of the police budget. The big problem was the cut from the operational budget.

The police are a very responsible body of individuals. Their union is a responsible union. It is a pity some other unions are not quite as responsible. They were prepared to take an across-the-board cut. They did not like it and I think they were quite justified in not liking it, but they were prepared to take it. To some extent, I suppose, that set the ground rules for exactly what could be argued.

I have said a number of times, and I do not resile from it at all, that when we talk about must-haves and can-haves the first and foremost responsibility of any government is the security of its citizens. At a national level that means an adequate defence force and at a local level - a State or Territory level - it means a properly equipped, capable, operationally sound and supported police force. So, when you talk about cutting budgets, the last area of any budget that should be cut is the police budget, and the last area of the police budget that should be cut is the operational area which delivers the services to the community. That is where this Government well and truly got itself found out.

It is interesting to note the recommendations on page 24 of the Estimates Committee report. If the Government looked a bit further at the agreement signed by Mr Collaery last year, indeed there is provision in that for funding to 1992-93. Look more closely at the Grants Commission report. The ACT is accepted as a special case in the area of police; not so in health and education, if it looks a bit further there. If it looked at that agreement it would find that there was provision for adjustable funding for the next financial year and this one as well, which is quite different from what the Government did.

The first recommendation, that that $1.2m proposed reduction is not in accordance with the agreement with the Commonwealth, certainly is something that this Government must ensure, because I think it has missed the point there. The second recommendation relates to community policing not being materially affected because that is so very important to the community, as can be seen by the huge amount of support the police, the Opposition and the Police Association had in the campaign against the cuts to the police operational budget.

Mr Speaker, there are a number of other points I would mention. Tourism is mentioned on page 14 of the report. The Government has closed the offices in Sydney and Melbourne. Apart from the points highlighted there as to whether tenants can be found and that we might still have to pay for those offices, I really wonder whether that was such a terribly sensible thing to do, because where do most of our tourists come from? Sydney is really a quite short drive from Canberra. A lot of tourists come up here, especially from the western suburbs and those areas of Sydney which are only a 2- or three-hour drive away.

Similarly, Melbourne is not all that far away. They are the two biggest cities in Australia. I wonder about the sound economic sense of closing the tourist offices there. Perhaps offices should remain there - maybe in cheaper accommodation, but as a visible presence. After all, we have all the States represented here, I believe, by their tourist offices.

Mr Speaker, the social policy branch seems to have become a quite huge hydra-monster. Do we really need so many people? Do we need 14 Senior Executive Service members? I am certain that I could probably provide the same service to government with myself as head and two supporters or something. Do we need the 40-odd staff we have in that unit? It is a social policy advisory area. It is not, as the former Chief Minister and former Treasurer said, a branch to actually provide services to people as such. It is a social policy unit as such. It is not providing shopfront services and it certainly is quite correctly highlighted by this Estimates Committee report.

I think the Government has to look at ACTION buses. There are a couple of things I would suggest to the Government that it might like to look at - this Government and future governments - and the first is ACTION's charter. ACTION's charter, I understand, is somewhat restricted in terms of what ACTION can do. Perhaps if that charter were altered it might open up a few more activities in which ACTION could engage and which might make that service more cost-effective. ACTION is overfunded and loses about $64m a year. Surely further rationalisations can be made there. Maybe this Government should look at some work practices, although that is very difficult to expect from a socialist government. Perhaps a few reductions could be made there; perhaps there could be some rationalisation of bus routes. There is a lot of scope there. Can we afford that type of subsidy to a public transport system when we have so many economic difficulties?

Turning to housing, we are very well provided for here, despite problems with public housing, and we still have in public housing a number of people who can quite easily afford to pay full market rents. Maybe some of those houses - I understand that there are up to about 3,000 - could be sold off to those long-term tenants. Perhaps they would buy their own homes rather than continue to be subsidised as they are by public housing. That is one area where there was an increase in the budget - a substantial increase of some $5m. That is another area which could be looked at.

I note that there are a couple of houses in Bougainville Street, Manuka, whose value must be round about the three-quarters of a million dollars mark. What is happening with those? Should they remain public housing? Perhaps there is a very strong case, Mr Speaker, for rationalising that area of government and selling some of the perhaps excessive assets we have there.

Finally, Mr Speaker, I note with interest the comments made by my colleague Mr Collaery in relation to the Bruce Stadium. I would also commend to the Government some of the concerns expressed in relation to the Health Promotion Fund. It has been highly successful in the short period of its operation, but there are some concerns as to what the Government is going to do with that fund. That certainly would be very worrying if that goes through to fruition.

So, there are a number of points in this budget which have been correctly brought out by the Estimates Committee in a reasonably bipartisan way and which any government should take on board because things are not going to get easier here in the Territory. Really, any government has to prioritise. We do have to identify must-haves rather than can-haves.

MR MOORE (5.39): Mr Speaker, I would like to begin by congratulating all members of the Estimates Committee on what I think was a fine piece of work and a fine report. I think that it was done in, as Mr Stefaniak said, a spirit of bipartisanship. My congratulations go particularly to the chairman who, I think, has had a very difficult job in chairing that Estimates Committee over the last three years. I believe that he has improved his chairing skills substantially in each of those years. I appreciated the appropriate way in which he chaired this particular committee.

Before I start on the areas I was going to talk on, I just take up with Mr Stefaniak a point about public housing that he does not appear to understand. The people who are in public housing and who are paying the full market value of the rent - and that is a quite large proportion, Mr Stefaniak - subsidise the people who are there on a proportion of their salary and who are not paying full market rent. If a profit can be made from the full market rent, then there is, if anything, a cross-subsidy. We are not subsidising them. If there is any subsidy at all, it is in the careful way that our Housing Trust handles those people so that the people who are not paying full market rent are able to remain in their houses. I think it is a very appropriate utilisation of Territory assets.

One issue that I think it is most important to raise is the strategy that was adopted by the Estimates Committee. One of the strategies that were adopted, and one that I took particular interest in, was the request for each program to provide bar graphs of the expenditure. These bar graphs are not to be confused with the sort of graft that goes on in other bars. I certainly do not refer to any legislative bar.

The graphs that I am talking about, Mr Speaker, provided for the committee, at a quick glance, an overview of expenditure at any given time throughout the period that we are examining. It made it very easy for us to identify areas on which we should ask questions. On most occasions the responses on what appeared from the graphs to be overexpenditure were very clearly handled. It was quite clear, I am sure, to people running each program that when they had a graph that showed a major area out of balance they would have to answer questions on that, and they obviously came prepared to do so. I would think that the exercise of asking for those will have an impact on each of the programs.

I would hope that the next Estimates Committee would request that not just the actual expenditure but also the commitments be provided on such graphs. I think that we may well see, once again, a different picture as far as expenditure and commitment go. The exercise of asking for that information in the same way as the exercise of asking for information right across the Estimates Committee is in itself such an important process that it keeps people on their toes. I think that it should be recognised for its own value.

For me, one of the great disappointments of the Estimates Committee this year compared to last year was that the Ministers were in a position often to throw a response back to a previous Minister and say, "Well, this occurred under your ministry". Therefore, that let them off the hook. I felt that that was a major disadvantage. I imagine that it is one that we will see less often in future years as we get more stable government in the ACT, as I expect. I think most people would agree that a change of government three times over the last three years has had major disadvantages in many ways.

Mr Kaine: Would you like to make it four, Michael?

MR MOORE: Mr Kaine interjected, "Would you like to make it four?". That is something on which I am always prepared to negotiate.

The other areas, I think, have been taken up very well by other members, with the exception of the $1.2m funding reduction for the police. The issue over the police rescue services and the overlap with fire services was raised in the Estimates Committee. The response was received only, I think, some one week ago. I think it reflects very badly on the police force that the response took so long in coming.

Mr Humphries: Or the Minister.

MR MOORE: It reflects badly on the police force and the Minister that the response has been so long in coming. I believe that it is a response that we should have seen at the time that the debate over the $1.2m budget cut was in full flight. We may need to retain that rescue service, but that issue remains to be sorted out. I am not convinced that we do need to retain it, but there may well be some very important arguments there. There certainly is clear room for budgetary savings there, in these tight economic circumstances.

I think all members recognise the constraints under which this budget was formed and I think they have responded responsibly in those terms. I have commented previously on how the three budgets that were brought down by Chief Ministers have all been very responsible in terms of budgetary constraints - I think, in stark contrast to a number of other States. It was inappropriate, therefore,

that this budget cut for the police was debated in isolation from this overlap in the rescue services. It is something that will require looking into in future budgets.

Mr Speaker, I am pleased to have been able to participate in all three estimates committees and to have done the work that has made these reports possible. We should never underestimate the amount of work that was done by the secretary of the committee, Ms Karin Malmberg. I know that it has been mentioned before, but all members here would feel that it is appropriate to give that credit to Ms Malmberg again and again because of the fantastic effort she put in and the tremendously long hours worked by her in particular and by other members of the committee support staff. That certainly should not be left unsaid. It should be made very clear that it is appreciated by all members. I appreciate the fact that everybody was saying "Hear, hear" as I made those comments. Mr Speaker, on that note, I would like to say thank you.

Question resolved in the affirmative.

Mr Humphries: Aren't you going to respond? You should have adjourned the debate so that you can respond on the next occasion.

Ms Follett: Can I adjourn the debate, Mr Speaker?

MR SPEAKER: It is gone.

Ms Follett: I am responding anyway.

Mr Collaery: Can we suspend standing orders to allow the vote on that motion to be retaken?

MR SPEAKER: Certainly, if you wish to, we could. If the Chief Minister wishes to seek leave of the Assembly to present a response, she may do so later and members could speak to that again.

Sitting suspended from 5.49 to 8.00 pm

DAYS OF MEETING

MR BERRY (Deputy Chief Minister) (8.00): I seek leave to move an amendment to the motion passed by the Assembly on 24 October concerning the sitting of the Assembly on 22 November 1991.

Leave granted.

MR BERRY: I move:

> That the resolution passed on 24 October 1991 concerning the sitting of the Assembly on 22 November be amended by omitting in paragraph (1) "22" and substituting "29".

This motion is, of course, to provide for the attendance of the Chief Minister at the proposed extra private members' sitting day. It was proposed earlier that that extra day should be 22 November. At that time it was assumed that the Special Premiers Conference would be held on that date. It has subsequently been shown that there has been a different outcome. Instead of there being a Special Premiers Conference, the Premiers and Chief Ministers will meet by themselves to discuss issues which would have been the subject of debate at the Special Premiers Conference.

Mr Speaker, this matter was discussed by me with members at last Friday's meeting on government business, and it was thought at that point that the numbers might be sufficient for the passage of this amendment. I understand that there has been some fluidity in the minds of some members about this issue in the meantime, and the outcome might be quite different. I was unable to get a firm fix on an outcome, but what I seek to do is to secure the Assembly's commitment to ensuring that the Chief Minister will be available to participate in debate on those private members' matters which members consider sufficiently important to warrant an extra day of sitting before the Assembly finally breaks.

I am advised that there may be a move for Monday, the 25th. I consider that sort of a proposal a mischievous one designed to interfere with the business of government. It is well known that Monday is the traditional day for meetings of Cabinet. Of course, in the lead-up to the final sitting days of this Assembly, Cabinet will be meeting for some hours.

Mr Jensen: So, we have to work on Sunday.

MR BERRY: Mr Jensen cries out, as he is wont to do, from the back benches, "Why don't we work on Sunday?". If Mr Jensen is so keen to work on Sundays, why does he not have the private members' business day on Sunday?

Mr Stefaniak: Think of the staff.

MR BERRY: Mr Stefaniak cries out from the wilderness, "Think of the staff". I would be thinking of the staff. Any staff required to work as a result of this motion would be dealt with in an appropriate way under awards of the Commonwealth.

Mr Humphries: It costs the Territory money.

MR BERRY: Mr Humphries cries out, "And it would cost the Territory money". Mr Humphries has never in the past been concerned about the cost to the Territory in anything that he has managed.

Ms Follett: It cost $17m.

MR BERRY: Seventeen million dollars - and he starts to worry about the cost of this proposal. He cannot even manage his own areas, and he is worried about a few dollars for the passage of what he and his colleagues consider to be important items of business, private members' business. They ought not to be churlish; they ought not to be cynical; and they should, in fact, approve of a sensible timing for this day of private members' business. A sensible day, Mr Speaker, is of course a day when the Chief Minister can be here.

It is quite clear that there is mischief in the minds of those opposite rather than any concern for the proper consideration of matters in this Assembly. They are attempting to make it difficult for the Government. We do not mind. We can deal with that. But what these people have to understand is that they will be shown to be churlish in their attitude to the Government and the way in which the Government is able to bring business before this house. They are attempting to interfere in the process of Cabinet. What we have to do is expose them for that.

The day proposed in my motion is a sensible day. It is a day when the Chief Minister can be here. I would expect the members opposite to be decent enough and have sufficient good manners to accept that there are some issues which have to be dealt with outside the Territory by the Chief Minister. One, of course, is the Adelaide meeting which is proposed for the 22nd. It is not good enough for members opposite to try to substitute dates which are aimed at undermining the proper carriage of business by Cabinet, Mr Speaker. I urge members to support the motion I have moved.

MR KAINE (Leader of the Opposition) (8.07): Mr Speaker, I oppose Mr Berry's motion. If he really intended that it be passed, the last thing he would do would be to come in here and accuse us of being mischievous, churlish and cynical.

Mr Berry: Well, you are all three.

MR KAINE: You are all three. This motion is clearly intended only to stir up a heated debate. You are not going to have your way, Mr Berry. For you to pretend that you do not know what the Liberals in opposition think is an outright lie. Our case has been put to you.

Mr Berry: On a point of order, I require that to be withdrawn.

MR KAINE: I withdraw that, Mr Speaker. But Mr Berry well knows that our case has been put to him. He was told, without any equivocation whatsoever, that the Liberals were prepared to change to the 22nd. Incidentally, that is a date which he himself chose for private members' business; we did not. It was to satisfy Mr Berry that we opted for the 22nd.

Mr Berry: No.

MR KAINE: He may deny it, but the 22nd was adopted by this Assembly because it suited Mr Berry. When he sought to change the date, he discussed it with our Whip and we discussed it - - -

Mr Connolly: Michael Moore moved it.

MR KAINE: It was to suit you, Mr Berry.

Mr Connolly: Mr Humphries said that it was Michael Moore.

MR KAINE: I am quite well aware of what Mr Moore's position was. I also know what Mr Berry's situation was. But when we discovered that you wanted to change it, Mr Berry, we had a party meeting and we discussed it. We decided as a party that the 29th, which happens to suit you, does not suit us. One of the reasons why it does not suit us is that one of the members of the Liberal Party cannot be here on that day.

You cannot expect the members of this Assembly to respond and satisfy your every whim. You seem to believe that all you have to do is come in here and say, "We will select a date" and that all of the members of the Assembly are somehow obliged to accept it. The answer is that we will not.

Mr Berry: You have been caught out again.

MR KAINE: You have been caught out. You have been caught out, because we told you that we would be prepared to change the date to the 25th. But no, that does not suit you either. I repeat: If you had not come in here in your churlish, mischievous, cynical way and deliberately set out to stir up a heated debate, you may have got some cooperation. But you never look for cooperation; you try to bulldoze your way through the system and expect everybody to fall in behind you. This time, Mr Berry, we will not.

The Liberals will not accept your proposition that we move to the 29th. It is inconvenient for the Liberal Party. If you bothered to listen to what you were told by our party Whip, you would know why. Our position is quite clear. If you are prepared to move the additional private members' day to the 25th, we will agree with you. We will not agree, and before you came onto the floor of this house you were aware that we would not agree, to the 29th. End of argument.

MR STEFANIAK (8.10): As indicated all along to Mr Berry, the 22nd certainly was accepted by the Liberal Party. We made arrangements accordingly, as you did yourself, Mr Speaker. You arranged to go to a very important meeting on 29 November on the understanding that the 22nd was to be the day for private members' business. Understandably, Mr

Berry and the Labor Party want to change the day because the Chief Minister now has to go to a special meeting of Premiers. Good luck with that one, Rosemary. We were being quite reasonable.

Ms Follett: I raise a point of order. Mr Speaker, you have ruled many times that members are not to be referred to by their first names.

MR STEFANIAK: I withdraw that if you want me to. Good luck, Chief Minister. At a meeting with Mr Berry, we indicated that we would be quite happy to sit on Monday, the 25th, or indeed any other day that members found suitable. Mr Stevenson also has a problem with the 29th. People have made arrangements on the basis that, initially, this special sitting day was to be the 22nd. However, Mr Berry now wants to change the day.

I understand that there is circulating in Mr Collaery's name an amendment proposing that the private members' day be 25 November, when all members can be present. That might have some ramifications for the Cabinet; but, as other members have indicated, quite clearly, Cabinet can sit on some other day. You can sit on Sunday. I am sure you will find that the Alliance Cabinet did that on a couple of occasions. The Alliance joint party meetings were also held on Sundays on a number of occasions. I think Mr Berry is being quite churlish in suggesting that the Cabinet meeting has to be on Monday, the 25th.

Obviously, everyone can be here on Monday, the 25th. For that reason, I think Mr Collaery's circulated amendment should be supported. We will certainly support it. If it does not get up, we will certainly be voting against Mr Berry's motion to change the 22nd to the 29th.

MR COLLAERY (8.12): I move the following amendment:

> That "29" be omitted and "25" be substituted.

I believe that this might resolve the issue so that we can get on with business.

MR DUBY (8.13): I heard the cry of exasperation from the government benches, "Who cares? Let them do what they like". Frankly, I think this is a very childish debate. The simple fact is, and let me say it from the outset, that I support the concept that the house should not meet when the Chief Minister is not available to be here. The Chief Minister is representing all of us at the Premiers meeting - - -

Mr Kaine: We are happy to meet when she is here.

MR DUBY: Just let me finish, Mr Kaine. I think that, if anything, we should be moving as an amendment that we simply do not sit this Friday; and surely, like grown-up people, we can go to a room and come up with a convenient

date that everyone agrees on. Motions that say that we shall sit on Monday or we shall sit on Friday or whatever, forcing people to come to this Assembly whether they wish to or whether they do not, frankly, are worse than kindergarten.

I am most disappointed that an acceptable sitting day has not been arranged between the relevant people. My diary can be adjusted to whatever date suits the majority of members of this Assembly. The simple fact remains that some people here are being recalcitrant. The word "churlish" has been thrown back and forth across this chamber. I think there are many people on both sides of this house who are behaving in a most churlish fashion on this matter.

I support the motion, as proposed by Mr Berry, that the date of the 22nd be removed. If it appears that the 29th is not acceptable to a large number of people, for goodness sake let us get rid of the 29th. If it appears that the 25th is not acceptable, let us get rid of the 25th. What is wrong with the week after? For those five days this parliament is not due to sit at all, and people can have as many private members' days as they wish.

I am most disappointed in the antics of the house. I am, frankly, between a rock and a hard place. If I support Mr Berry's motion, it means that I am forcing people to come next Friday; if I support Mr Collaery's amendment, it means that I am forcing the Government to put off something they want to do next Monday. Surely, there must be a sensible consensus view that can be reached.

MR MOORE (8.15): Mr Speaker, in my original motion I proposed that the date be the 22nd. That was done after discussion with all members of the Assembly. At that stage, of course, we were not aware that a Premiers Conference was going to be scheduled for that date, although Ms Follett did say to me that that was a possibility. As I recall our conversation, I indicated that I would be prepared to change the date in my motion so as to allow for the Premiers Conference. I agree wholeheartedly with Mr Duby. It would be inappropriate for us to meet at a time when the Chief Minister was representing the ACT, and all of us, at a Premiers Conference. That we are agreed on.

On Friday afternoon, when we had a pre-sitting meeting with Mr Berry on the fifth floor, this matter was discussed and these dates were checked through. We tried for the 25th and tried for the 29th. We went back and forward looking for different dates. It seemed at the time that, although every day caused major problems, the date that caused least problems was the 29th.

It was certainly understood by members at that meeting - certainly by me - that the 29th would be an inconvenient time for the Speaker, in particular, and for Mr Stevenson. It was made clear to us that the Speaker would be on Commonwealth Parliamentary Association business on that day. Mr Stevenson told us that he had commitments. I think the commitments of the Assembly override the other commitments, except when we are talking about a Chief Minister representing us at a Premiers Conference. I accept that that is an exceptional circumstance.

We should be able to reach a compromise, but I believed that a compromise had already been reached and that the best we could do was Friday, the 29th. It did not suit everybody, and that is a shame. However, it was the best we could do. Therefore, I stated at the time that I was prepared to support a motion that would call on private members' business on the 29th and that I was prepared to accept that the 22nd was now not suitable. I still stand by that.

DR KINLOCH (8.18): I make just a small point. There is certainly nothing mischievous in what is going on. I agree that we should find a very suitable time. There was one other factor about the 29th. Three of us were in Sydney. We were not here to be heard. Three of us knew that we had the meeting of one of the select committees of the Assembly on the 29th. The public hearings of that committee are on the 29th.

MR HUMPHRIES (8.18): This is a rather ridiculous debate. I do not want to contribute to it at any great length; but I have to say that there is a real issue here of, if you like, an order of precedence. Whose right to do other things at the time the Assembly proposes to sit takes precedence over other persons' rights. If the Chief Minister is representing the Territory at a Special Premiers Conference, even a renegade Special Premiers Conference, I am perfectly happy to acknowledge that prior right, and I agree fully that the Assembly should not sit on that day.

But I think it is a little bit, dare I say, churlish of the Government to say, "We insist on the 29th. The 22nd is not suitable because the Chief Minister is away. The 29th does not suit the Speaker. That is too bad. The Speaker is just a Speaker. He is not the Chief Minister. It does not suit Mr Stevenson, but Mr Stevenson is just a leader of one of the parties. He does not matter either. And the fact that the Select Committee on Hospital Bed Numbers suggested a committee hearing for the 29th does not really matter either". I think, Mr Speaker, that is an attitude which is a little bit regrettable.

I support Mr Duby. I think we can find a suitable time. If Mr Berry had been gracious enough to come down and talk to us about finding a suitable date other than the 22nd or the 29th, I am sure we could have found one. But, as usual, he has not tried to do that; so we are left to our own devices.

Mr Berry: No, your representative met with me last Friday.

Mr Kaine: And he told you that the 29th was not acceptable.

MR HUMPHRIES: Indeed. Clearly, Mr Speaker, I think we should not be looking at what is acceptable to the majority; we should be looking at what is acceptable to the whole Assembly. Let us see whether we can find a better time.

Mr Duby: We should have consensus.

MR HUMPHRIES: I do not much like that word, but consensus will do. I disagree with Mr Moore's comments, but I think the 25th is the best day. If too many of us are going to be out of the Territory at any other time, I think it would be much easier to reorganise Cabinet's meeting for some day besides Monday. After all, on occasions the Alliance Cabinet met on other days. It met on Tuesdays, as I recall, on a couple of occasions and it certainly met on Sundays. If it could meet on those days, I do not see why the Labor Government's Cabinet could not meet on similar days.

Mr Duby: Why can we not sit at night on Wednesday and Thursday?

MR HUMPHRIES: That is another proposal. We could sit in the evenings or, indeed, Cabinet could sit in the evenings. Those things have also happened in the past, and I do not see why they could not happen again. What is the big deal about Monday? As to the argument that Cabinet traditionally meets on Mondays, I must say that I have never heard Mr Berry in the past cite tradition as an argument in favour of doing anything. So, I will tuck that away and quote it back to him on future occasions - and I am sure there will be many.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (8.21): Mr Speaker, I move:

> That "25" be omitted from Mr Collaery's amendment and the words "a date to be fixed" be substituted.

I hope that this amendment will restore some sensibility to these proceedings. In effect, it picks up the very rational proposal that Mr Duby put forward earlier on - a very sensible, calm proposal - and picks up what seemed to be even words of reason coming from Mr Humphries. To get

us out of our dilemma, I propose that we sit on a date to be fixed. We can then all go away from this place and sort things out so that we can get a sensible solution, rather than playing politics on this issue.

Mr Kaine: And if Mr Berry had done that in the first place, we would not have been having this debate.

Ms Follett: Oh my! Settle down, Trevor.

MR CONNOLLY: Just settle down, Leader of the Opposition. We seem to have a sensible solution that has come - - -

Mr Humphries: I take a point of order, Mr Speaker. The Chief Minister took great exception only a few minutes ago to the use of her first name in this debate. She just used Mr Kaine's first name.

Ms Follett: I beg your pardon. Settle down, Mr Kaine. I take it back.

Mr Humphries: I would ask that she withdraw, as she was asked to withdraw on Monday.

MR SPEAKER: It has already been done. Please proceed, Mr Connolly.

MR CONNOLLY: Thank you, Mr Speaker.

Mrs Nolan: Just adjourn the debate.

MR CONNOLLY: I do not think that adjourning the debate would have the same effect, because it would still lock us into the Friday in the original resolution. If we filibuster further, we are locked into sitting on Friday of this week, when the Chief Minister will be away. As has been said, the Chief Minister represents the Territory. Ms Follett now represents the Territory and up until a few months ago Mr Kaine represented the Territory. So, we really cannot sit on Friday.

Mr Kaine: And will again.

MR CONNOLLY: We do not think we will see that day. Even the pamphlet does not have you - but we will not go into the pamphlet.

My amendment is a sensible proposal which will clearly vacate this Friday and, rather than locking us into Monday, allow the party leaders - the increasing number of them that there is - to get together and sort out a date on which we can all agree. It is a sensible solution. We can get onto what some people may think is trivial business before this house but which, for heaven's sake, is the Human Rights and Equal Opportunity Bill - a landmark piece of legislation which we really ought to be debating rather

than wasting our time. If my amendment is carried, it will allow Mr Collaery's amendment, as amended, to vacate Friday, and it will allow people to sort out a sensible day for a sitting.

Amendment (**Mr Connolly's**) agreed to.

Mr Collaery: Mr Speaker, I withdraw my amendment.

MR SPEAKER: You withdraw your amendment?

Mr Collaery: Yes. I seek leave to withdraw it.

Mr Kaine: You can't, because we have just amended it.

Mr Collaery: Mr Speaker, have your vote.

Amendment (**Mr Collaery's**), as amended, agreed to.

Motion (**Mr Berry's**), as amended, agreed to.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE - STANDING COMMITTEE
Report on Draft Variation to Territory Plan

MR KAINE (8.24): Mr Speaker, I present report No. 9 of the Standing Committee on Planning, Development and Infrastructure, which deals with the draft variation to the Territory Plan, Forrest section 12, block 1, known as the Canberra Bowling Club, together with a copy of the relevant minutes of proceedings, and I move:

> That the report be noted.

Mr Speaker, this report has come from what, of necessity, had to be a very hurried inquiry by the Planning Committee into a reference which it took upon itself, given that considerable public concern was being expressed about the process by which a variation to the lease purpose for this block of land was agreed to by the Government.

I would point out, of course, that the committee has no statutory responsibility in this connection. It took the hearing on of its own volition because it felt that members of the public should have one more opportunity to put their view on this matter. It was most regrettable that, in the time scale that was available to us, it had to be a hurried inquiry. It was not possible, regrettably, to hear everybody who would have liked to put a point of view to the committee, and it was pretty obvious that there were a lot of people out there who believed that the consultation process that the Territory Planning Authority and the Government had gone through in order to reach a decision on this matter was inadequate and inappropriate.

It is a matter of regret, I think, that the committee itself could not accommodate all of the people who, I know, would have liked to come and put their views forward. However, we did get a number of people who came and presented their views. Out of those public hearings there emerged a number of concerns, both about the decision and about the process. The first of those concerns had to do with the consultation process, and it is clear that there is not only dissatisfaction in connection with this particular variation that is under consideration but also concern that the planning process currently available does not ensure adequate and comprehensive consultation. I think that that is probably the factor that emerged loudest and most clearly from our inquiry.

The second aspect that emerged was that those people concerned with the heritage significance of this particular lot of ground believed - with reason, I suspect - that their case had not been given due regard by the Government and, indeed, there was evidence to suggest that the Heritage Committee at least had made a strong recommendation in connection with the building and one of the greens of the bowling club and that the Government had, in fact, given no consideration at all to that. It was completely set aside as an argument and not taken into account in the decision making process at all, as far as the evidence on the matter showed.

A third matter of concern was the scale of the redevelopment, and the fact that the number of townhouses proposed to be accommodated on this block in the redevelopment appeared, to some people, to be excessive. Finally, there was a range of issues of what we regarded as lesser importance. They included such things as the viability of the bowling club itself, the club's alleged failure to comply with the terms of its lease, the inadequacy of the existing stormwater drainage system in the area, the supposition that the bowling club stood to make a large amount of money from the redevelopment and that this was considered by some to be inappropriate and, finally, environmental concerns such as the potential noise problem in the area adjacent to the club.

The committee took all of those matters under advisement; but, having considered the existing planning processes, as covered by the present law - the Interim Territory Planning Act 1990 - the committee had to conclude that the process that was adopted was, in fact, the normal process. There were no departures from the normal process in connection with the consideration of this matter. The Territory Planning Authority and, as far as we could determine, the Government did not change the process in any way. In other words, the participants in the debate were neither favoured nor disadvantaged by the process, relative to other changes to other blocks. So, the committee had no basis for comment other than to accept the fact that the process was that which is required under the law and which was quite normal; there was nothing unusual about it.

In connection with the clubhouse and the heritage aspects of the proposal, as I said, there was no evidence that the Government had fully taken into account the views of those people who believe - and with reason - that this site has a heritage value. Indeed, we noted, and we recorded in the report, our opinion that it is regrettable that, before the decision was made by the Government to accept the proposal, no evaluation was carried out of the feasibility of restoring at least the historic core of the building and what the costs of doing that might be. So, there was no evidence to suggest whether it was possible, physically and financially, to restore the building there to its original configuration, to refurbish it and retain it. Of course, in the time that was available to us we had no capacity to make that assessment either, and we in fact received no evidence as to whether it was possible.

The committee felt that it was not within our capability and perhaps it was even inappropriate for the committee to attempt to assess the economic viability of the redevelopment proposal that was being put forward. That is, do we need 26 townhouses? Are 10 enough? Should there be 45? We had no way of being able to assess that and, indeed, we have concluded that that really is a matter to be taken up by the club through the ACT Planning Authority. The Government itself has to make that determination through the normal processes. There is a process through which such proposals must go before approval is finally given to the design and siting of any buildings or other facilities proposed to be put on that block.

The final conclusion of the committee was that there is a strong feeling that, now that there is on the table a new planning Bill which changes the process for considering proposals, the new process should be put in place as quickly as possible. In fact, it was suggested to us that this project should be deferred until the new planning legislation is in place, because it allows appeal rights that do not currently exist and because it would allow the consideration of this particular proposal in a different set of circumstances and with new dimensions being taken into account.

The committee has not accepted that. The fact is that there is a law in place today and that there may be a new law in place next year. We do not believe that we could recommend that a possible future law should be applied to processes that are taking place today. That would be totally unacceptable and it would imply a retrospectivity in the legislation - something which most governments in Australia would find abhorrent. Legislation is generally not made retrospective, and we could see no justification in this one case - and it was clear that it was only in this one case that the proposition was being put forward - for recommending to the Government that it should set aside the consideration of this proposal and that next year's law, if the law comes into effect next year, should be applied now.

That is not to say that the members of the committee do not have considerable sensitivity to the arguments that were put forward by people who were going to be directly concerned by this project. We believe that there is a case for getting the new legislation in place as quickly as possible and not necessarily deferring it until the middle of next year or some later time.

Mr Jensen put forward a dissenting report, which he is quite entitled to do. I suspect that Mr Jensen would really like to see the proposed law in place now. In that respect, he has some sympathy for the argument put forward by some of the players in the game. The other members of the committee do not accept that view. All we can say to the Government is that there is some real concern about the process by which this particular development proposal has been handled. There is real concern that the decision that has been made is the wrong one. We can only recommend to the Government that they consider very carefully the views that were expressed to the committee, and perhaps consider whether or not they may wish to review that decision, defer it or give it some further consideration before the process goes ahead.

But, that said, the recommendations of the committee, I think, are quite self-evident; and we are not recommending to the Government that they should do anything at this stage. We believe that the process that was followed was a legal process, although some arguments perhaps were not given sufficient weight in the consideration before the decision was made.

Mr Speaker, I finish as I began. I think it is regrettable that the committee did not have longer to pursue some aspects of the arguments put forward by people with a direct interest. We were constrained by the fact that there was a motion of disallowance on the table in this Assembly. We believed that we had to put our comments to the Assembly so that they could be taken into account if that disallowance motion was to be debated. It may just give members a different view and perhaps a little more information about the concerns of the community before that debate takes place.

MR JENSEN (8:37): Mr Speaker, in my opening remarks, I think it is appropriate to comment on the final point made by Mr Kaine. The point really is that, if the Government had waited for the report of this committee, the motion of disallowance would not have been necessary because the committee may have been able to make a firmer recommendation. That is one of the problems with the main part of this report. It draws conclusions but really does not make any recommendations for the Government. That was one of the reasons why I saw fit to submit my own conclusions and recommendations.

Mr Speaker, I think it is important to say one thing from the outset. Mr Kaine referred to the committee during his remarks. This, Mr Speaker, is not a majority report. It is, in fact, a report to which two out of three members agreed, but it is not a - - -

Mr Kaine: That was a majority the last time I heard.

MR JENSEN: I am sorry. It is not a - the word escapes me for the moment.

Mr Kaine: A unanimous report.

MR JENSEN: It is not a unanimous report. Thank you, Mr Kaine.

Mr Kaine: That I accept.

MR JENSEN: Thank you. It is not a unanimous report, and I think that is really one of the problems. That was why I saw fit to make my dissenting remarks.

Mr Speaker, in some ways, to a certain degree, this is also an historic report, for it is the first time that the Planning Committee has presented a report on a proposal to vary the Territory Plan. In this case, as I have already said, it is unfortunate that the Government chose to make a final decision before the committee completed its report.

Members will no doubt recall that the Rally's Bill to amend the interim planning legislation will ensure that this state of affairs does not happen again when, hopefully, the legislation comes forward for debate and passage through this Assembly. It has always been my view, and the view of the Rally, that this sort of inquiry is a major part of the role of the Assembly. I would hope that some of the other proposals put forward by the Planning Authority to vary the Territory Plan - proposals about which the community has already expressed its concerns - will be examined by the committee.

However, I have a fear that it will depend on the support for this suggestion by committee members and the provision of information to the committee before the final decision is made by the ACT Executive. My concern is, in fact, that the Executive will continue on its current path in making decisions despite concerns being expressed by the community that would warrant consideration by the Assembly Planning Committee, in much the same way as the joint committee of the Federal Parliament that looks at ACT planning issues, particularly the National Capital Plan, always consider proposals before final decisions are made.

In this case, if the majority report of the Planning Committee is accepted it will mean the end of the participation of the community in a process of development-driven planning that appears to have been rushed through

the process by the Government. The residents of Forrest will have lost the last avenue of appeal against a proposal that, frankly, has been a bit of a movable feast.

With such a large number of residents opposed to either the development proposal or the scale of these developments, plus the obvious objection by the Heritage Committee, one really must question where the pressure has come from. It would seem that there has been a strong link between proponent and government in this process. Unfortunately, time did not allow the committee to check this concern out further. It is my view that I probably would not have received from my colleagues support for such a move.

However, to be fair, I would like to exclude the Canberra Bowling Club in general from this concern. I have no doubt that any struggling club approached by an astute developer saying "Haven't we got a deal for you!" would be very keen about a way to drag themselves out of trouble and obtain a new clubhouse and some new facilities. One cannot blame the club for taking the course they did, although, as we know, this is not the first time a proposal for a redevelopment of this type has been put forward. The last one did not go forward because the Alliance Government chose to take a view different to the one taken by this Government, but it is the one that managed to go the furthest.

As members can see from my dissenting report, I was unable to support the most important part of the report - the paragraph on the scope of the inquiry, as proposed by the chairman during the public hearings, and the conclusions. No recommendations were made by the other two members, as they were clearly of the view that the proposal should go ahead.

It is unfortunate that the views of the residents who will have to live with the results of this report and who submitted their objections - we saw 780 signatures on a petition which was tabled in the Assembly today - were not taken into account by my colleagues, or, if they were, they appeared to carry very little weight. The least the other two members could have done was to recommend disallowance, to allow the Minister to reconsider the proposal and seek a compromise position that would have ensured that all parties were given an opportunity to take it further.

In fact, I detected from some of the closing comments made by Mr Kaine that, with hindsight, he may have considered that course of action. It is unfortunate that that did not take place. It would seem to me, Mr Speaker, that the proposed changes, driven by a "develop or bust" philosophy, are not good planning and will not be good for the future of that part of Griffith.

It was almost as if the proposal was set in concrete before the draft variation was tabled. Frankly, the proposal to relocate the clubhouse and the access to the site was

really window dressing and, to use a probably overdone phrase these days, a Clayton's compromise - the compromise you are having when you are not having a compromise.

Mr Speaker, this is indeed an historic day for the Assembly, as I have already indicated. However, it will also be a sad day when, and if, this proposal is accepted by this Assembly and not disallowed tomorrow when it comes up for debate. It seems to me that this majority, and I repeat "majority", and not unanimous report will be used to justify such a decision.

Frankly, Mr Speaker, this proposal we have looked at is bad planning and not a good omen for the future, as we debate the new planning legislation and the Territory Plan. The community is currently being asked to consider more than nine planning variations - the West Belconnen proposals, changes to six Gungahlin suburbs, and the draft Territory Plan, including 232 policy plan changes that are tucked away in the back of one of the reports - all within a very short period of time, and over the Christmas period.

At least the Minister, to his credit, has chosen to extend the time for discussions on the plan until March. I trust that he also ensures that the planners provide more information on the changes in the plan than we have seen already. If this proposal is anything to go by, I am not very hopeful; but I am sure community pressure will continue to mount in respect of these concerns.

Let me now, in the time allowed, Mr Speaker, turn to the report and the comments that I made in my dissenting remarks. I think it is important that some of the remarks that I have made in my report be put on the *Hansard* record. The first point that I need to comment on is the suggestion that this committee should consider only the due process that was applied. Mr Speaker, it is my view that the committee has a role also to consider the merits of this proposal, particularly when there is no effective appeal process within the ACT for these sorts of considerations. The merits of the planning proposals are not covered by the courts at the moment - only points of law.

It seems to me that the wide powers of inquiry given to committees of this Assembly are appropriate for this sort of activity, and I was very disappointed when, almost from the outset, it was suggested that we were really going to consider only whether due process was followed and nothing else. That is why I guess I knew from day one that I was probably going to have to make the sorts of comments that I have had to make in the rear of this report.

The committee has a role to question all parties, consider evidence obtained, and then make conclusions and recommendations for consideration by the Executive and eventually the Assembly. We must guard against a committee system becoming just a rubber stamp to Executive decisions. It must be seen to be independent and more than just a rubber stamp.

I was quite happy to accept that, in general and in principle, the due process that was set up by existing legislation had been followed by the Government in relation to the preparation of this draft variation. I am not saying that I agree with it, because I believe that it was not terribly well done and that it appeared to me from day one, like the other nine that I have seen as well, to be almost developer driven as opposed to being considered from the proper planning point of view.

The committee inspected the site and, while it was clear that the building was in much need of repair and had been altered, it was not possible for us to make an informed judgment due to the lack of any assessment of the cost and feasibility of retaining and refurbishing the building. An interesting point that we noted was that we were provided with two reports that had been prepared, in fact, after the committee had held its public hearings. They were dated 8 November, three days after we had held our committee hearings - the day, in fact, that we actually visited the site.

I was given the impression that this sort of information had been available to the club. It was interesting that they chose to have it redone. One has to wonder why they were not able to provide this information earlier on. Once again, I suggest that it goes back to the concept of the proposal that the club was really put in a situation where it felt that it had no option but to seek to redevelop its site.

It was very unfortunate that, despite a recommendation from the Heritage Committee not to demolish the site, the authority and the Executive did not obtain a further assessment before making a decision. I support the comments made by Mr Kaine in relation to that matter.

Mr Speaker, I contend that, if the planning process had been completed before a development proposal had been prepared, the commercial viability of the proposal would not have been in issue with the committee. Frankly, I object to being told in some pretty hard language that it was none of my business to make those sorts of inquiries. I felt that that was quite offensive. But it was not done in the bounds of committee; it was really a discussion that was held outside effective committee hearings.

I felt that that sort of discussion and comment was most offensive and most inappropriate. It is the business of an Assembly committee to consider all the options when it is looking at a proposal, particularly as there was some suggestion that the bowling club may have been able to achieve all its requirements and proposals without the sort of large-scale development that was being proposed.

Also, Mr Speaker, it appeared to me that no consideration was being given to a possible merger between the bowling club and the tennis club, with some limited housing developments, which would have maintained the sporting facility for the suburb and met the needs and requirements of the community.

I have already commented on the role of the committee, but I will now refer to the planning process. Proper planning principles would suggest that the club should have advised the Department of the Environment, Land and Planning that it was not in the position, or was close to not being in the position, to operate as a bowling club. As the holder of a city area lease, the bowling club should then have requested advice as to what sort of changes would be acceptable from a planning and heritage point of view, to see whether it could continue to operate on the site.

Once this issue had been resolved, the club could then have gone ahead with plans to seek a change of lease purpose in redevelopment in accordance with this change in land use. Unfortunately, Mr Speaker, what we saw here was a proposal that was driven by development conditions and not good planning. The planning came after the development proposals, when it should have been the other way around.

Much was made about the issue of public consultation. It was clear to me, Mr Speaker, that the form of public consultation that did take place between the Planning Authority and some of the residents was not sufficient. Some of the residents clearly indicated their views on the consultation that was referred to in the report as being considered by the authority to have been appropriate. It was quite clear from letters given to the committee that the group was only seeking further information and was not seeking, at that time, to represent the community.

However, as we all know, after some concerns had been expressed and a public meeting held, some of those residents did come forward to represent the community at the hearing, on the basis that, because we had limited time, it was not possible or appropriate for all of those who submitted expressions of concern to talk to the committee. *(Extension of time granted)* I note, as I do in my report, that the chairman acknowledged this during the public hearings.

I considered that the consultation process by the authority was deficient. Of 104 submissions, 96 were opposed to the proposal in whole or in part. On that basis, if the Planning Authority had some problems with the meeting that was held on 9 October 1991 and to which they declined an invitation from a resident, they should have arranged their own meeting to talk with the residents. Unfortunately, they did not do that. Also, when the residents proposed that the Planning Authority might like to consider some other options, the authority basically declined to do so on the basis, as it was put to us, that effectively it was too late. That, Mr Speaker, was most unfortunate.

Another interesting point was brought up during the public hearings. It related to the leasing arrangements for the land. A suggestion was made that the Canberra Bowling Club had failed in its lease obligations by not maintaining the building in proper shape. In fact, an examination of the lease supplied to the committee and an inspection of the existing clubhouse could lead one to concur with that suggestion. When we consider that the club was established with a lease but without a premium payment or major rental payments, this issue takes on much greater significance.

It is only the suggestion of a lease purpose change to allow residential developments that increases the value of the property and the ability of the bowling club to become what is in effect a developer. Such leases originally were not granted for this purpose to sporting clubs and non-profit community organisations. It is accepted that a betterment charge will be levied if the plan is varied - a variation to the lease approved by the surrender of the existing lease and the granting of a new lease. However, the community is not getting full value for the change in value and the loss of recreation area and open space.

In relation to the proposal itself, it would seem to me from my observation that the community would probably be quite happy to accept some redevelopment of that site, but of a different scale and nature. If the Assembly disallowed the proposal before us, and allowed everybody to go back to the drawing board, I am sure that all sides of this debate could reach a compromise that would meet the needs and aspirations of all groups involved.

MRS GRASSBY (8.55): In recent months the residents of Canberra have been able to examine and comment on many aspects of the planning of their city. The recent release of the draft Territory Plan is another aspect of consultation, and this Government is justifiably proud of it. The new planning laws have not come into effect, and it is important that the people of Canberra have a say about whether they are happy with those when they are brought in in the future. But you cannot change the rules halfway through the game.

That is what Mr Jensen has just been suggesting that we do. You cannot do this. You have to examine a proposal according to the rules as they are at the time. The proposed Forrest bowling club redevelopment is an example of community consultation as it should be at the moment, as the planning rules stand. From the beginning of this inquiry, the Planning Committee gave careful consideration to all points of view, and I believe that it reflects this in the report, although Mr Jensen does not agree with it.

I agree with the chairman that we looked at this matter very carefully. The attempt by a certain political party at political point scoring over the issue perhaps proves the need for local members in Canberra. The current system

is the only system the committee could consider. This Government welcomes and encourages involvement by Canberra residents in their neighbourhoods. I am disappointed to see this issue inflamed in the way that it has been recently.

The needs of the members of the Forrest bowling club have been carefully considered, as have the needs of the majority of the residents of the area. You must remember that these two groups are not necessarily mutually exclusive. Comments have been made that not enough time was allowed for the proposal and alternative points of view to be aired. To be fair, we must remember that three meetings were held with residents and over 100 proposals were examined before the report was drafted. Public hearings and hearings with the Planning Department were all carried out in accordance with the job of the committee. I feel that in every debate a point is reached when all sides have had ample opportunity to present their case, and I truly believe that this has occurred in relation to the Forrest bowling club development.

It has been claimed that the Forrest bowling club building is of heritage value. Whilst I would agree that it is significant that the club was the first bowling club in Canberra, I would not agree that the building, as it now stands, is of heritage value. Mr Speaker, having visited the site with the committee, I must confess that I cannot tell which part of the building is the original and not later extensions.

I must admit that I am not a builder, but I have lived in many and varied houses in my time. After examining the termite damage and dry rot, I can make an informed guess that this building is pretty well on its last legs. The last extensions were made to the building in the 1960s. Whilst I look back very fondly on the 1960s, I do not believe that buildings from that decade have reached the status of heritage value as yet. To restore the building to its original condition would, I feel, run counter to the needs of the club, because the club would have to be considerably reduced in size.

Mr Speaker, not only have generations of white ants dined on the Forrest bowling club, but the actual pylons supporting the structure have caused damage to the roof and floors by sinking into the ground as a result of years of heavy rain. The drainage problems of Forrest are well known. It is the opinion of ACTEW that the drainage on this site needs attention, and it may be very expensive to carry out.

The whole of Forrest was very badly organised and drained. It was one of the very early suburbs. The drainage problem will have to be attended to. If any development goes ahead on this site - and it is not for us to make a decision on what that might be - the drainage problem will have to be taken into account and rectification of the problem will

have to be paid for. I consider the uneven floors to be extremely hazardous, particularly in view of the fact that senior citizens are members of this club. The possibility of accidents occurring is becoming more likely as conditions get worse in this building.

The bowling club or, indeed, any sporting facility is no good to anyone if it cannot be used. I do not need to remind the members here about Canberra weather. I believe that an indoor bowling green would be an excellent addition to the already fine sporting facilities that Canberra offers. Canberra bowling enthusiasts would be able to make full use of such a bowling green at all times. The fact that there is a tennis club next door is very good and that club should remain, but I think there should be a bowling facility in that area. An indoor bowling green could be used for matches in the evening as well as in wet or cold weather. In fact, we could say that it would enable a more efficient use of the club's resources.

I must say that I am pleased to be able to support the report, which contains a compromise that was reached after consideration of all purposes. This willingness to compromise is evidenced by the fact that the proposal, I understand, was originally for 32 townhouses but is now for 26. However, it is not for us to make a decision on how many should be built on the site. The relocation of the actual clubhouse was reconsidered, and the proposed access to the new clubhouse was changed after careful consultation with the residents who were concerned. At no time has it been apparent to me that there has been less than a willingness to consult or to discuss any matter with the Forrest residents.

Mr Jensen wants the Planning Committee to make the laws. We cannot make the laws in the Planning Committee. It is out of the jurisdiction of the committee to do this, and it is not part of the law of the Territory. We really cannot be part of this. Mr Jensen knows better than to make that statement.

I feel that all care has been taken. As I have said, and as the chairman of the committee has said, it is not up to us to decide what redevelopment takes place on the site; that is a decision that comes before we perform our role. I cannot see any use for the clubhouse as it is. I can see it falling apart very fast. I will not even be polite about it - it is a dump. If the greens cannot be kept in good condition and the clubhouse is a dump, the club will lose members. Therefore, I think something should be done about it. I do not think that you should remove the bowling club from that area. It was the very first. It has been known as a bowling club for many years, and there should be a bowling club in Forrest.

What gets built on the site, and for what amount - whether it be 26 townhouses, whether it be 10, 15 or 20 - is not for me or our committee to decide. That decision will be made on other grounds. The proposed indoor bowling green will be very good. A new building will offer better conditions than exist there now. It will probably encourage a lot more residents of the area to play bowls.

I can see no reason not to commend this report to the Assembly. I would like to thank the members on the committee I served with; also the secretariat for the fine and hard work they did on the report - work that had to be done within a reasonably short time. I thank them all. I thank the chairman and Mr Jensen. Although Mr Jensen and I may not agree, I think it was a very good exercise, and it was done with lots of care.

MR MOORE (9.04): Mr Speaker, I shall take a few minutes to comment on this report as well. It is not a particularly lengthy report, and I have been able to scan it to a sufficient extent to realise, for example, that in Mr Jensen's dissenting comments he did in fact refer to Griffith on three occasions at least, when I am sure he actually means Forrest. The comments that we have just heard from Mrs Grassby are some of the lightest weight comments I have heard in this Assembly. The notion that in some way the committee might act illegally, or beyond the law, by looking at variations is an absolute nonsense, if ever there was one.

The limitations that the committee put upon itself are the committee's prerogative. It is quite appropriate for them to do that. However, the scope of the inquiry limited the range of what they could have done and, I believe, what they should have done. The committee should not have reviewed just whether or not the process was followed, but whether or not there was enough merit in the proposed development. The Assembly, after all, has the right to decide whether or not a proposal should go ahead. The Assembly as a whole has that right. The Assembly committee, of course, is a part of that decision making process. The committee can recommend to the Assembly whether or not it should proceed.

The committee ought not to work just on a very limited and narrow scope. In this respect I certainly agree with Mr Jensen when he draws attention to the fact that the scope of the inquiry was simply to consider whether due process had been followed. What we get from this report is really a report on due process. The due process was followed. What the Assembly will have to consider when this matter comes up for debate - and I have given notice that I shall move for disallowance of the proposed variations to the Territory Plan and Mr Jensen also has given notice of a motion of disallowance - is whether or not the proposed development should go ahead.

I think it is important for us in that consideration to take into account a certain social justice aspect of this development. I do not use that term "social injustice" lightly, as indeed other members of this Assembly have in recent times with reference to the private school funding debate. There are social injustice aspects of the leasehold system. If we allow this development to go ahead, I think we ought to be aware of the gift that we as a community will be providing for the Forrest bowling club. That must not be lost sight of.

Just imagine if a sporting body in this town came to this Government, or to this Assembly, and said, "We would like to have $200,000 or $400,000, in order to develop our facilities". What do you, Minister for Sport, think the answer would be? I will tell you what it would be. It would be, "How the hell could we find the money?". That is what we should be asking ourselves here. How the hell could we find the money to donate it to a sporting club? If the site is to be redeveloped - and that is another question that I will take on in a minute - why should the money go to a very few people for these particular facilities? In fact, it is suggested that the club is hoping to attract 150 new members with this development.

The development we are talking about is expected to cost $3.3m. What will be the increase in the value of the land? We can all attempt to imagine what it will be. There will be a valuation, no doubt, and the club will need to pay a 50 per cent betterment tax. So, just what will our donation be if we approve this development? What will we as an Assembly provide by way of donation to the Forrest bowling club, which is hoping to increase membership by 150 through our donation?

Is it really socially just that we provide that kind of funding to a small group of people? Considering that the land was in effect given to the club almost free, for peanuts, and that the rental on it has been peanuts, is it equitable that this club should be allowed to make a profit from speculating on the land by changing the lease purpose to allow for residential development? Quite clearly, it is not.

So, what should the land be used for? If the land is going to be developed, then it should come back to the community as a whole and be developed by the wish of the community and to the profit of the community. To put it another way, at the very least we should be charging 100 per cent betterment tax on the increase in the value of the land, if we can find an equitable and reasonable way to value land. That is the first point.

The second point is that, whilst we are busily trying to encourage people out into the sporting areas, whilst governments spend a fortune on health promotion and on getting people out to play sport, we have side by side one successful sporting facility and one sporting facility that

is rapidly becoming unsuccessful. A successful tennis club is growing, providing people with the encouragement to get out and play sport, to stay fit. As we know, the fitter people stay the less likely they are to have health problems. While that is going on and while the tennis club is prepared to take over some of that land, then we really must take its concerns into consideration.

The notion of redeveloping this site in the way proposed is entirely inappropriate. What we are doing is opening the door to allow every developer to go to all the clubs, particularly those in inner Canberra, and say, as somebody said before - I think it was Mr Jensen - "Boy, have we got a deal for you!". We certainly saw that sort of deal operate with the Uniting Church on the corner of Barry Drive and Northbourne Avenue - "Boy, have we got a deal for you". And of course they did.

Of course, this is the case with the bowling club proposal as well. It is development driven. It has very little to do with the club. It is not difficult for a small club to be taken over by a number of people - vocal people - who have a great idea for making life a lot easier, a lot better, for the people who are involved in the club. But what does that mean for the rest of the community? It means the loss of a major source of revenue.

It seems to me that, whilst this report finds that due process was followed, it is still the case that the redevelopment is entirely and absolutely inappropriate. I think it is a great shame that the Planning Committee - I exempt Mr Jensen because of his dissenting comments - narrowed their focus to due process instead of recognising their role in advising the Assembly appropriately, not on whether due process was followed, but on whether or not this is an appropriate development to go ahead. Clearly, it is not. Clearly, it is not in the interests of Canberra. Clearly, it is not in the interests of social justice. When the debate on this comes up, I urge members to act in the interests of social justice and reject this variation to the Territory Plan.

MR COLLAERY (9.14): Mr Speaker, I lived near a tranquil setting once. There were large gum trees. People used to set up their easels and paint there. It was peaceful; there was birdlife, possums, and so on. Now, two mornings a week I am woken up at 5 o'clock by a truck emptying a Tiger bin or some form of big metal bin. It is not on the same day as we have our other 5 o'clock noise from the other garbage trucks. A very small decision to put a Tiger waste disposal bin near our bedroom window has disturbed totally the way I sleep.

That may seem trite. The fact is that the citizens of this Territory, more than just the few people who lived at Rocky Knoll, will revolt over what is going on. Little do they know how many green papers are in the pipeline at the moment. I do not know whether Ms Follett believes that,

with the construction jobs in hand, she will be able to nullify the negative votes coming from that. I am not quite sure what the motive of the Labor Government is.

But let me go back a point in time. Let me go back to 4 March 1989 and the leader and editorial on election day by the *Canberra Times.* Up until a day before the election the *Canberra Times* did not overtly support the Residents Rally. We did not get the same space for our candidates and, generally speaking, we were perceived to have some narrow issue complaints relating to Reid, to Rocky Knoll, to the casino, to Lyneham, to Turner and to a number of issues in Tuggeranong.

Mr Berry: Well, nothing has changed.

MR COLLAERY: Mr Berry interjects, "Nothing has changed". What did change was that the next afternoon Mr Clyde Holding approved a number of developments - on the eve of self-government. So, the leader the next morning, the most persuasive leader, telling people how to vote, said that if anything justified self-government it was the decisions taken on the eve of self-government and, secondly, the non-consultative, peremptory manner in which they had been made when we did not have adequate appeal rights. Nothing has changed. This is exactly the same process again on the eve of another election. So, woe betide the Labor Party and those that go along with the Labor Party. I will say thank you very much, as Leader of the Rally - if I still am.

But what is going to happen in the interim till we can deal with you and your cohorts and your lobbyists on election day? What are we going to do in the interim? How are we going to save that bit of priceless Forrest heritage, and what are we going to do about those people? I know that, in your caucus room, you all call them silvertails. It did not help us on Rocky Knoll either to be called upper Narrabundah people. The fact is that you will reap your rewards, but you will still destroy the environment in Forrest like you destroyed Rocky Knoll.

I have never spoken about Rocky Knoll in this chamber. This is the first time I have ever addressed the issue here. I am indebted to my colleague Bill Wood, who did in fact raise it, quite properly, in a report on the ageing, if I recall correctly. He questioned the genuineness of aged persons housing. I am indebted to Bill Wood for doing that. But the record shows that I have not addressed the Assembly about Rocky Knoll. I intended to remain quiet about Rocky Knoll during this Assembly, because it is a matter in which I had a personal interest.

I fear that, unless what will happen at Forrest as a result of the proposed development is clearly pointed out, the development will go ahead. There will be a huge elevated car park metres above the ground; trees will die; there will be noise; there will be more club-goers; times will change. There will probably be some form of convention

activity, by whatever name. Property values will drop, but some of the people there probably have not sold for 50 years. They are not that concerned about their values. They are concerned about heritage, the environment, that delightful open space.

There is another small thing I noticed at the Remembrance Day ceremony the other morning. I have been to many Remembrance Day ceremonies around the world. In what other part of the world would you hear, during the minute of silence, the twittering of birds, the galahs - and I am not talking about those opposite me at the moment - and the other things that are part of the bush capital? They will steadily be pushed out of that area of Forrest; that is a fact.

We will be debating, first off tomorrow, the disallowance of this Forrest matter. So, you had better gird your loins and come prepared for what you have got into with your mates, because we will take you on over this development. I will save my powder until then.

DR KINLOCH (9.19): I very much appreciate the excellent statement of the leader of the Residents Rally, the continuing leader of the Rally, the leader of the Rally into the next election. I much appreciate Mr Jensen's dissenting report. I like very much what Mr Moore had to say. Indeed, he was speaking in the way that he steadily has spoken when he has been true to the values that the Residents Rally has consistently followed.

It is a very simple matter for me. In 1927 some public land was given to some citizens for some very useful sporting purposes. They are now intending to subvert that use. Instead of using the land for sporting purposes, they intend to use it for developer purposes. That is wrong.

Question resolved in the affirmative.

HUMAN RIGHTS AND EQUAL OPPORTUNITY BILL 1991

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

> That this Bill be agreed to in principle.

MR COLLAERY (9.21): Mr Speaker, in introducing this Bill the Chief Minister said:

> This Bill is the result of a process begun under my first Government and it has now been brought to fruition under my second Government.

She went on to say a number of other things. She said, indeed, that she had picked up the work done by the former Government, in particular, "invaluable contributions made by the community during the consultation process", and that she had revised - and I stress this - "the draft legislation to bring it more into line with Labor policy". She said:

> The current Bill directly reflects Labor's commitment to social justice and the promotion of equality of opportunity in the ACT.

A morning or two later, the Chief Minister was interviewed on Matt Abraham's ABC *Morning Show* and, among other things, Mr Abraham asked her:

> ... do you feel you should have given some credit to Mr Collaery for the work he did on this Bill while Attorney-General in the Alliance Government?

Ms Follett replied:

> It's difficult to see why, Matthew. Back in 1989, I actually prepared a discussion paper on anti-discrimination and put that out just before we lost office. And in the ensuing 18 months when Mr Collaery had responsibility, nothing much happened.

Ms Follett: Hear, hear!

MR COLLAERY: We will see whether you are still saying that in a couple of minutes, Ms Follett. She said:

> It's been left until Labor got back into government just recently to actually put the Bill on the table, so I don't believe that Mr Collaery can claim it as his own because he had a very long period in which to take some action and, as far as I am aware, that just didn't happen.

Mr Abraham went on to ask Ms Follett to comment as to whether the draft Bill now before the house was, apart from several exceptions and minor technical points, exactly the same Bill that was left for Ms Follett when she resumed office. This is a serious matter, because there may be a substantive motion; so Mr Berry might care to listen. Ms Follett's response was:

> I introduced a draft Bill myself in the Assembly while we were in opposition.

That is what Ms Follett said. But Mr Abraham was on top of that, and he said:

> But that didn't have much relation to this current Bill, did it?

Ms Follett replied:

> Well, I think that the Bill that is before us now is really a blend of my own draft Bill, possibly Mr Collaery's, although I didn't draw heavily on his.

Mr Abraham said:

> It's not line for line the same as his?

Ms Follett's response was:

> Well, I don't believe it is, no.

Mr Speaker, I seek leave to table the draft Discrimination Bill prepared and available to me on 27 May 1991.

Leave granted.

MR COLLAERY: I thank members. I also seek leave, Mr Speaker, to table an annotated comparative copy of the Bill now before the house. The annotations reveal the several minor changes - the somewhat unnecessary addition to the term "homosexuality" of "lesbianism"; the deletion of the exemption for pastoralists, who may wish to advertise for a married couple; and some other technical amendments.

Leave granted.

MR COLLAERY: I thank members. I now claim to the house that Ms Follett, both in her speech to this Assembly and in her utterances to the citizens of this Territory, has attempted to implant the notion that this Bill before us today was produced by her Government. Members can draw their own conclusions. I will not labour the point at this hour of the evening. What I do say is that, clearly, Ms Follett has implied, also wrongly, that the Bill now before the house stems from drafting instructions given to parliamentary counsel prior to her departure from government.

Drafting instructions simply had not been given. After seven months in office, human rights legislation was no more than a well intended course of action by the Labor Party. Members have access to that discussion paper that Ms Follett issued. I have it here; they can get a copy from me. It is a well intended general little essay that one would expect from a competent lawyer.

I now put on the record the real history of the Bill because Ms Follett was, of course, too churlish to do that. The Alliance Government Cabinet approved the drafting instructions for this Bill. From now on I am going to refer to this Bill - and I hope other members on this side of the house do - as our Bill, except for where we want to make some amendments. We will refer to this Bill as "our" corporate Bill, and we will see what Ms Follett says in reply.

We approved the drafting instructions in April 1990. This received front page treatment in the *Canberra Times* on 11 April and was the subject of an editorial on the following day. Six months later - I stress that in relation to how long it took the Commonwealth, years ago - a draft Discrimination Bill containing 129 clauses was released for public comment; that is, on 29 November. And, contrary to some information given by Ms Follett's office to the **Canberra Times** whilst I was out of this Territory in Japan, a copy of the draft Bill was forwarded by me to Sir Ronald Wilson, president of the Federal Human Rights and Equal Opportunity Commission, on 12 December 1990.

The Bill received wide national - and, I understand, some international - circulation. Written submissions - some of them extremely detailed - were received from over 40 individuals and organisations, including the Commonwealth Human Rights and Equal Opportunity Commission, the South Australian Equal Opportunity Commission, the New South Wales Anti-Discrimination Board, the Women's Electoral Lobby and other women's groups, the Conflict Resolution Service, the Law Society, various HIV support organisations, disability and ethnic organisations, and so on.

The submissions total some 400 pages, on my advice, and a proper historian considering this historic Bill would need to have reference to the schedule of all of the submissions received, which clearly point out its very positive nature, contrary to the catcalls. The trouble for government members is that I did my homework for once and I have got them cold. I have the 400 pages, and these groups did not say that it was terrible. In the detail stage - and you had better get your breakfasts ready - I will read it down your throats for the next couple of hours, because it is all there.

I now turn to the rest of the timetable, for the record. Submissions for public comment closed on 22 February 1991 and the final draft Bill was available on 27 May 1991 - a few days before the Government fell. The timetable of 13 months between Cabinet approval and the Bill beats by a mile the years and years that the Territory waited under Labor for its own legislation.

I say this not as an expression of personal pique - although, of course, I cannot understand why, unlike her colleague Mr Connolly, Ms Follett should be so cruel and totally disingenuous in her comments on the radio. The fact is that modern Acts record the date of the presentation speech. Scholars, lawyers, courts, judges and historians go to the presentation speech to find out the history of the Bill.

Ms Follett's presentation speech is not the history of the Bill and, when she stands in response, I expect that she will have the courage - she has left the chamber - to acknowledge what she has done and apologise to this house and to the people of the Territory. She owes it to us. If she does, I will defer any suggestion of a substantive motion. That I believe, and she will get advice that the evidence is there.

Turning to the Bill itself, I also want to debunk the pleasant notion in Ms Follett's introduction speech that the Labor Party has a mortgage on human rights, that the Labor Party is the source of all liberal thought in this democracy, and that the citizens of this Territory needed to rely on Ms Follett's party for salvation.

Look through the history of our nation - for example, Henry Lawson. I will just put a few things on record to show that the history of human rights goes well beyond the Labor Party and its ethic. I refer to a Lawson poem which, interestingly, in my edition appears just after the blood on the wattle poem. I know that Mrs Grassby wants to get that subject up in the Assembly in a day or two. It is called "The Ballad of Mabel Clare". In this poem, Mabel Clare was a young Australian woman, before Federation, who met someone dressed as a lord one evening. He asked her to marry him, and she said, "I am a democratic girl, and cannot wed a swell!". He said:

> For you I'll give my fortune up -
> I'd go to work for you!
> I'll put the money in the cup
> And drop the title, too.
> Oh, fly with me!

And, of course, "That very night she flew". I know that the feminists do not like this poem; but it is right next to the blood on the wattle poem, and I want to put this in the record. That night she flew with the lord. But then, do you know what - and this is apropos of the little confidence trick earlier in the evening - - -

Ms Follett: I raise a point of order, Mr Speaker. Mr Collaery has referred to a confidence trick, Mr Speaker, and I think that should be withdrawn. It is surely unparliamentary.

MR COLLAERY: Mr Speaker, I withdraw it. I do not wish to lose any time. But the record stands.

Debate interrupted.

ADJOURNMENT

MR SPEAKER: Order! It being 9.30 pm, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

HUMAN RIGHTS AND EQUAL OPPORTUNITY BILL 1991

Debate resumed.

MR COLLAERY: Then, finally, he said to her after they had married:

To prove your love I spent my cheque
To buy this swell rig-out;
So fling your arms about my neck
For I'm a rouseabout!

And she "sank into his arms". He ends the poem with:

... if she wasn't satisfied
She never let it out.

No gender group in this community has a mortgage on human rights or the advancement of the causes of women. Implicit in Ms Follett's introduction speech there was a suggestion that, of course, she had to introduce the subject of human rights in the Assembly. I give Australian women their credit. Katherine Susannah Prichard gave her first public speech in London after the turn of the century. She said to the St Ives Primrose League in London:

> Every day, the women of Australia are making history, proving to the world that women's power in public affairs is for good; that when women vote a great power for the purification and betterment of public life is brought into play.

They are noble sentiments; but she was not a member of the Labor Party, not by a mile. Then, of course, there is the tide of men. In Oscar Wilde's trial the QC said to him, "Did you ever adore a man?". "No", replied Oscar, "I have never adored anyone but myself" - and there was laughter in the court.

Mr Speaker, the process of the development of human rights is varied and an aggregate of the emotions of the community. It does not relate to any modern day left wing of the Labor Party. Mr Connolly is amused. He just told me that he liked the book by George Bernard Shaw, *The Intelligent Woman's Guide to Socialism, Capitalism, Sovietism and Fascism.*

I wonder whether it is still on the Labor Party's shelves. This is one thing I would like Ms Follett to respond to: I often get invitations, and I am sure she does, which say down the bottom, "Lounge suit only". Is there a tyranny there? Is there a tyranny of fashion? Do women still have to wear a uniform? George Bernard Shaw says this:

> Take for example the tyranny of fashion. The only law concerned in this is the law that we must all wear something in the presence of other people. It does not prescribe what a woman shall wear: it only says that in public she shall be a draped figure and not a nude one. But does this mean that a woman can wear what she likes. Legally she can; but socially her slavery is more complete than any sumptuary law could make it.

And so it goes on. There has been recognition of the situation of women in the literature over the centuries.

I now move to political discrimination. Of course, it is only a few years since Wilfred Burchett and Joyce - Lord Haw-Haw - were treated as treasonous people. In a recent text, Roland Perry writes this:

> ... both Joyce and Burchett wanted radical political changes in their respective countries. Joyce dreamt of returning to a Hitler-conquered United Kingdom, with some dictatorial role for himself. Burchett's letters and utterances suggested that he would have returned happily to an Australia convulsed by a communist revolution, and that he would have expected a role in communist government.

The writer goes on to say:

> The dreams and writings of radicals could not be considered by law as treasonable, however, unless they were translated into action.

By 1972, he writes:

> Yesterday's potential traitor had become tomorrow's heroic patriot.

The whole process of political change has not happened just in this Territory, and has not happened under the Labor Party. It has no mortgage on human rights reform in this country.

What are the underlying causes of discriminatory conduct? One has to examine oneself. We have to work out what motivates us. This morning I got out my fifth grade reader from the Christian Brothers, Wollongong - Mr Humphries laughs because he knows what is in it - and I looked through the contents. There is "The story of some hot water". Another one is, "What is that, mother?". Another

is, "I met a miracle". There is also, of course, "The apples - bad company" - and, of course, this could be pertinent to today in this chamber. Then there is another one, "An instance of animal sagacity". And, of course, finally, "Birds of passage".

I think many a young man's views were formed in school and from books like this. When one looks through the content of what we were taught, one can understand - and be a little forgiving, perhaps - the manner in which a lot of our reactions were formed. I read from just a couple of sections of this book. This one, of course, Mr Stefaniak will like; it is from the story entitled "I met a miracle". The miracle is described as follows:

> He seems to have been literally sprayed with bullets. He was wounded in the head and chest ...

and so it goes on. That was the "miracle" of Gallipoli. The next one is about a bushfire - and, of course, the person who saved the crop from the bushfire. It says:

> Mary was twenty-five, an Australian bush girl, every inch of her five foot nine. She was the best girl-rider in the district; saddle or bare-back. It was Christmas Eve, and she had ridden over the ridge to carry Christmas greetings ...

and so it goes on. That sort of text is what we were brought up on. There has to be an understanding that social change has to be brought about in an orderly fashion, and not through legislation which seeks to punish more than to provide a remedy or a relief for those who are discriminated against. I am concerned that in some quarters there is a mood that people should be punished; people of all sorts, including men who grew up on their fifth grade readers. I do not know whether punishment is the right way to bring about change and a recognition of human rights. Mr Duby, of course, is looking for his name on it at the moment.

Successful human rights enforcement, in the context of this Bill, depends upon either the proven fact of a motive - that is, someone who has fascist outlooks, and is known to have them and has demonstrated that, for example, and has a motive - or indirect discrimination; for example, policies with unintended results. I recall pursuing a number of years ago the Immigration Department on a number of matters. One in particular was its statistics on the colour, in effect, or the nationality of all the illegal immigrants it had detained. Of course, a good statistical survey of that had never been done, and when it was done, at a cost of $3,000, by a professional auditing firm in this Territory, which had never had a job quite like it, we found the most disturbing statistics on how it arrested people - unintended results. Of course, this was all procedural discrimination.

Of course, that sort of procedural discrimination came out in the Estimates Committee hearings recently. I refer to this Territory's Department of Education's age profile and access to employment, particularly for middle-age women. That is not a directly discriminatory process. No-one could suggest that of the officials involved. But the procedures for advertising - the manner in which advertised vacancies are dealt with - has produced extraordinary problems for this and successive Territory governments in relation to that age grouping. The fact is that access and equity issues are at a very difficult stage in that service and perhaps elsewhere in the department.

To finalise my comments at the in-principle stage, the other area that this Bill deals with is the question of disparities. This refers to the situation, such as that which has developed in North America, where no individual has identified that discrimination exists, but where disparities are found to exist only because you can do statistical inferential studies and you can determine, from agreed standard variation issues, what is happening, particularly in hiring, in the employment sector. There is an important aspect of this to debate at the detail stage, in terms of the exemption of much of the industrial award area from the provisions of this Act.

This is momentous legislation. It represents an historic and herculean effort by the government law officers and the other people who contributed to it. It does not tackle some of the really hard issues. For example, at a feminist theologians conference last May, Justice Elizabeth Evatt, for whom I have great respect and who I hope will be the next Governor-General, criticised the continuing exemptions in Australia for religious bodies from sex discrimination legislation.

So, what we can do in this debate is foreshadow what further we have to tackle and what we cannot do at this stage, due to reactionary forces, a lack of initiative and a difficulty in educating our own population to accept the reforms. I commend our Bill to the Assembly and I hope that, with relevant amendments and adjustments, particularly those dealing with incitement to racial disharmony - amendments which I propose to move later on in the debate - this Bill will be carried.

MR STEFANIAK (9.41): Mr Speaker, the Liberal Party will be supporting the Bill in principle. We have a number of amendments for the detail stage. I think at this stage it is important to put a number of points on the record. Mr Collaery is, indeed, quite right when he refers to this Bill as "our Bill" or "my Bill". I note that, in the Bill that is now before the house, there are some seven changes from the Alliance draft Bill. I hope I am not misrepresenting them, but they relate to a small number of points.

Basically, there is the title; the old clause 35 has been taken out; about four other clauses have been taken out and some parts have been put into other clauses; and a new clause 89 has been put in, which is actually, to my mind, a very good addition and I would actually commend the Labor Party for that. It is a pity that their Federal colleagues could not put something similar into the AFP Act in relation to complaints against police. But they are the only real amendments. There have not been too many really substantive amendments to the draft in this Bill. So, while Ms Follett and the Labor Party refer to this Bill virtually as their own, it is a Bill that has been developed very much by the Alliance Government. That should have been acknowledged and Mr Collaery is quite right in pointing that out.

Mr Collaery is also quite right in pointing out that the Labor Party certainly does not have a monopoly on human rights. If anything, at times that party has shown a distinct disinclination in relation to some aspects of human rights. I would point out to members opposite that landmarks in relation to human rights, anti-discrimination and a really fair and equal opportunity for all in Australia have often come from the conservative side of politics.

For example, in politics, the first woman in Federal Parliament was, I think, Dame Enid Lyons. She was a member of the United Australia Party, the forerunner of the Liberal Party. Indeed, in relation to racial discrimination, the first Aboriginal member of parliament was, of course, Senator Neville Bonner, a Liberal senator from Queensland. Quite often the Labor Party speaks very loudly in relation to human rights and anti-discrimination; but, in fact, it is often people on the other side of the fence - in political parties of a conservative or National Party nature - who have pioneered some very significant reforms in human rights in Australia.

I think that does bear saying. I do not mean in any way to take away from some of the reforms that the Labor Party, over its 100-year history, has made, to the benefit of Australia, on the questions of anti-discrimination and human rights. But one certainly cannot forget the very significant examples I have given in relation to pioneering steps taken by the Liberal Party and by its predecessors in relation to this particular question.

At this stage I raise a number of matters in relation to which we will be seeking to amend this Bill. We have also been given some other amendments by Mr Stevenson, and also some further amendments by Mr Collaery, some of which we knew would be coming and some of which I have just seen for the first time. There are significant amendments, as one would expect in relation to a Bill of this nature.

First and foremost is the title of the Bill. When this legislation was drafted, the Alliance Government, I think quite properly, decided that the draft Bill was to be called the Discrimination Bill. That is entirely appropriate because that is what it is about. It is about countering discrimination; it is about dealing with aspects of discrimination and seeking to counter them. Similarly, we have a Crimes Act; that is, an Act to counter crime in the community and dealing with various acts that the legislature makes illegal. Accordingly, just using the principles of plain English, "Discrimination Bill" is the most appropriate form of wording. That is what the old Alliance Government had, and that is what we would be seeking, it seems along with Mr Collaery, to substitute.

There are a number of potential problems, I think, with this legislation. For a lot of them we will have to wait and see, in some respects; but for others there is a lot that we can do now. Like most legislation, if commonsense is applied, any problems that cannot be readily seen can be overcome in practice. It is very good, however, to get things right to start with, and that is what we certainly are attempting to do with our amendments to this piece of legislation. We want to amend it so that, as far as is practical, it is got right to start with.

It is worthy of note that most States in fact have a similar type of legislation. In New South Wales, of course, there is the New South Wales Anti-Discrimination Act, introduced by the Greiner Government. I am mindful of some of the arguments that I understand Mr Stevenson will be raising in relation to whether there is in fact even a need for this type of legislation.

It should be said that Australia is one of the freest countries in the world. In Australia there is less discrimination, hatred, racial bias and ignorance that has a real effect in the community than in most other parts of the world, because of the very nature of our society. We are a very fortunate country. We have inherited some excellent traditions. We have forged some excellent traditions through our short 200-year history. We are one of the freest countries in the world, and a country where all people are, to all intents and purposes, free and equal before the law.

There are always problems in relation to this. There is always the notion that, if you have a lot of money, obviously you are much better placed than people who have none at all. Something cropping up more recently in terms of our legal system is that, more and more often, if you have a lot of money you can afford to buy good lawyers, and if you are dirt poor you will have legal aid and will be looked after; but, if you are middle class or in a job that does not pay very well and you do not qualify for legal aid, you are disadvantaged. That is very true. Nevertheless, we are a fortunate country.

I am interested in parts of this legislation because, looking at it, I wonder how effective it will be in terms of actually countering discrimination. Things can always be tarted up. Language can always be used to get around any statute, and perhaps that will happen here. One example I can think of - there was not excessive discrimination, by any stretch of the imagination; but it is indicative - is the discrimination against a number of migrants after World War II - the "dumb wogs" from Europe who came out here. Certainly, there was some discrimination against them.

Most of them, I think, would say that it was fairly minor and did not cause too many problems; but it was somewhat niggling. Certainly, it was far worse than they might have experienced back home, for whatever reason. I can recall the case of my father, who acted in about 20 jobs in the Public Service from 1955 through to about 1965. He acted in those jobs and they always ended up being given to somebody else, even though he performed them well. The only real reason that could be advanced for that was that he was a poor, dumb Polack - and I think there was probably some discrimination there.

I might say, however, that he finally got out of where he was and had a very wonderful and excellent boss, the late Artie Duffell, for the last seven or eight years of his time in the Public Service. But, certainly, I can recall the frustration that he felt. That was the only real reason, although it was rarely said and could not be pointed to as such. I wonder whether, in the sort of case where people are clever enough to get around the legislation, it will be possible actually to point at people and say, "You are discriminating against that person on the grounds of race", for example, or whatever. Maybe not. I wonder how effective this legislation will really be.

I suppose I am also mindful of the fact that complaints were certainly made to my party in the days when we had the old Commonwealth Human Rights Commission, I think it was. We had complaints of reverse discrimination against people by that particular body. Perhaps that is something that also needs to be looked at.

However, the legislation here seeks to make an attempt to counter all possible types of discrimination. It creates a number of considerable powers - and I note that some of Mr Collaery's amendments relate to some of those, as do ours - which may well be a little bit overboard. I note that it also attempts to have the commissioner get parties together to reconcile their problems without the need to go any further. That is very sensible and very laudable. Indeed, anything aimed at conflict resolution, especially in this type of area, is far preferable to getting into effectively legal situations where people become adversaries and you have lengthy, drawn out processes that waste a hell of a lot of time, resources and, indeed, emotions of the people concerned.

I will be interested - and, indeed, my party will monitor this - to see whether there are any areas where this legislation can be abused. I am pleased to see that clause 89 has been inserted by the Labor Party, because I think it will provide a disincentive for people to abuse some of this legislation. Perhaps there is a question - and I am sure Mr Stevenson is going to raise it - of whether we really need this or not. We will see. Other States have it. The problems seem to have been in terms of interpretation and definition rather than how the actual Act has worked and how discriminating circumstances can be resolved.

Clauses 7 and 8 of this Bill are largely intended to attempt to overcome this. I think most examples of discrimination have been put in there, with one very noticeable exception. Clause 15 deals with employer and employee bodies and organisations, and it makes it unlawful for a body or an organisation of employers or employees to stop someone becoming a member on the grounds set out in clause 7. It also makes it unlawful for such an organisation to deny access to a member or to deprive a member of rights of membership.

But there is no provision in this Bill to stop discrimination against someone because that person is not a member of a trade union, an employee or employer body or a business group, or a students association. We are concerned about the issue of compulsory membership of organisations - of unions, of some employer bodies, and of student unions; hence, the two amendments we would seek to make to clause 7. With those amendments, I think that class of persons or those areas of discrimination will be well and truly covered. But, in the view of the Liberal Party, that is a glaring omission and something that we would seek to address.

I know that Mr Berry does not like that idea, but that is absolutely typical. This is meant to be a discrimination Act - an Act against discrimination - and we certainly do not like the idea of someone being discriminated against because they refuse to join a particular body. This is meant to be a free country, and I thought that was what this Bill was all about.

Mr Berry: It is a free country because of trade unions, Bill.

MR STEFANIAK: It is a free country because of a number of other things, Mr Berry; for instance, because a lot of soldiers went off and died in a few world wars, because we have a Westminster style of democracy and because a lot of reforms were made in the nineteenth century when we pioneered democracy. There are a hell of a lot of reasons.

Trade unionism is only one of them, Mr Berry. There are a number of other reasons; do not forget that. If we are going to be fair dinkum here, we cannot let narrow ideology prevent us from putting into this Bill the relevant things to, in fact, make it work.

I am pleased to see, in Part III, the large number of very sensible exemptions from unlawful discrimination. I am pleased to see those exemptions apply. Various other possible exemptions can be specifically brought to the commissioner's attention, and applied for. They also appear to be quite sensible. Indeed, there is much in this Bill which can be commended; and, hopefully, it will work in practice. We have a few reservations about it. It will be interesting to see how it pans out in practice. We will be moving a number of amendments. Other members will also be moving amendments to this particular piece of legislation. Hopefully, when it is passed, it will ensure that we have workable anti-discrimination legislation, because that is what this is all about.

I am pleased to see also that the provisions in relation to administering this piece of legislation are not particularly bureaucratically onerous. It is envisaged that there will be a permanent bureaucrat, a part-time commissioner and some support staff. I think it is a bureaucracy of three people, plus the part-time commissioner. That does not impose an unreasonable burden on the ACT taxpayer. Accordingly, I think only some $150,000 has been allocated in this budget for this measure. That certainly is sensible. I would hate to see a huge bureaucracy develop out of this. That is not intended by anyone. This Bill has the support of my party. However, we do see the need for a number of amendments, which we will move at the detail stage.

MR HUMPHRIES (9.56): As Mr Stefaniak indicated, the Liberal Party will support the concept of legislation which outlaws discrimination. Clearly, that is a development which is very much in tune with those occurring elsewhere in this country, and it is not a trend that the Liberal Party would generally oppose. But, as with all legislation, we would like to ensure that we enact for the Territory legislation which is appropriate for the Territory and which is workable and just in the Territory, and not merely enact legislation because it is trendy or fashionable to do so in other places in this Commonwealth. Accordingly, we have considered the Bill carefully, and have a number of reservations. Those reservations, of course, have been outlined, at least in part, by Mr Stefaniak.

It is true, I believe, that some discrimination is not only inevitable but also potentially desirable in respect of the activity of human beings. We all discriminate in a variety of ways, in every aspect of our daily lives.

Mr Duby: I do not, you bastard!

MR HUMPHRIES: Mr Duby says, "I do not, you bastard". I think he was being facetious, Mr Temporary Deputy Speaker. I am sure that that is a matter for no great concern.

As an example of what I am saying, I might enter a restaurant and choose to sit at a table which is away from people who are smoking. That is a form of discrimination. I am discriminating, on the matter of where I might sit, on the basis of what other people in the room are doing or on a particular attribute of those people. One might choose the seat that one takes on a bus on the basis of who it is that one wants to be near, and who one does not want to be near. One forms relationships and marries people on the basis of discrimination. All those sorts of things, obviously, are very much a part of everyday life.

The point of this legislation, of course, is to identify those sorts of discrimination which we as a community believe are intolerable and ought not to be permitted as a basis of conduct, and which are properly brought within the ambit of the law. I add the second proviso because there are, naturally, a number of instances of discrimination which one regrets or even abhors and which are not logically or practically capable of being legislated against. For example, if a person chooses not to sit next to an Aboriginal person on a bus, that attitude is regrettable, in the extreme perhaps; but it is not an attitude that we can legislate against. We cannot outlaw bigotry per se, but we can outlaw manifestations of bigotry as they might occur to lawmakers.

As such, the list of grounds set forth in the legislation, particularly in clause 7, is generally welcomed by the Liberal Party. The grounds mentioned there are, I think we would all agree, grounds which ought not to be the basis of decisions by persons having authority in certain circumstances; for example, in relation to housing, employment, the offering of educational opportunities or any of the other particular instances set forth in later clauses of the Bill. I cannot consider any of those there to be inappropriate, although there is, of course, another point to do with the question of definition and limiting the effect and operation of these particular provisions, which I will come to in a moment.

Clause 8 of the Bill talks about what constitutes discrimination. I think generally I would agree with the terms of that clause, although I believe that, at the same time, there is some question, particularly in respect of paragraph 8(1)(a), about what the treatment of someone "unfavourably" really means. Where one chooses between two people - for example, in an employment application - one, of course, treats one favourably and one unfavourably, and there are issues raised there of how much one can treat anybody favourably without, by implication, treating somebody else unfavourably. But that is probably an esoteric point, which I will not pursue.

There is, however, a real question about the definition of the grounds set forth in the legislation. It is, I am sure, no surprise to the Attorney or to the other lawyers in the chamber to know that there are many thousands - probably tens of thousands - of legal judgments in existence, particularly in the United States, that deal with definitions and interpretations of legislation, both Federal and State in that country, to do with human rights and what we might call equal opportunities. There are many thousands of cases that define particular clauses, phrases and meanings in the relevant legislation.

Of course, as I understand it, the Bill of Rights is the basic document dealing with the rights of American citizens, and that, and other legislation over time, of course, has built up a quite large body of law which has to be interpreted by courts. I should, I think, draw to the attention of the Assembly that there are many cases of controversial and contentious interpretation of provisions in those laws, including the Bill of Rights, which have given enormous concern, not just to Americans but also to other people around the world as they have watched these events unfolding.

I would be very unhappy if we were to find ourselves in the position of having to build up a massive body of law surrounding our own legislation over a period of time in order for it to be understood by ordinary citizens - and that is not an altogether outrageous fear. There are some sections of our own Constitution, for example, that use extremely simple language, such as, "trade ... and intercourse among the States ... shall be absolutely free", for example, which is the subject of absolutely colossal amounts of legal argument and judgment; and that makes those particular provisions susceptible to interpretation by ordinary citizens only at the greatest mental exertion.

What also gives me grave concern is the course of events that have led to this legislation coming before the house. I have had the advantage of seeing, in advance, some of the remarks that Mr Collaery has made this evening concerning the authorship, or the parentage, of this Bill. I have to say that I find some of the comments in Mr Collaery's speech that are attributed to Ms Follett - and I assume that they are accurately attributed - both in the Assembly and on radio, in particular on ABC radio, quite disturbing. The comment that Ms Follett made in response to Mr Matt Abraham's suggestion that the Bill she was bringing forward was, line for line, identical with Mr Collaery's Bill was:

> Well, I don't believe it is, no.

That was the end of a succession of comments that indicated very strongly, I am sure, to the listeners to that program that there was really not much of a relationship at all between the Collaery Bill and the Follett Bill presented for enactment. That, to be quite frank, is a comment which

is quite false - utterly and completely false. Clearly, the Bill now before the Assembly is substantially the Bill drafted by those draftspeople who served the Alliance Government. Of course, they are the same draftspeople, to a large extent, who now serve the Labor Government. Obviously there is, in these debates, some attribution of draftsmanship or of parentage to particular politicians.

We all know full well that those loyal souls who work away in the legislative counsel's office are in fact responsible for 95 per cent of what appears in Bills in this place, but we persist with the myth that there is some authorship in the politicians who present these Bills. If there is any authorship, clearly it belongs principally and primarily to Mr Collaery, not to Ms Follett. I would regret very much to see Ms Follett saying to the community that the enactment of this legislation tonight, or whenever, is a major achievement for the Labor Government. That would be a quite false suggestion, and I give her notice that we will certainly be contending otherwise if she makes that case in the broader community. Clearly, it is only partially the achievement, in small part perhaps, of the Labor Government.

Clearly, legislation of this kind is overdue in the ACT. Clearly, it is appropriate for us to ensure that the citizens of the Territory are adequately protected by provisions of this kind. I have no doubt at all that there have been cases, even in the recent past, where what we would consider people's inherent rights, or assumed rights, have been breached, for which no legal remedy has been available because legislation of this kind was not available.

I do not think that those of us on this side of the house need to apologise for taking some time to put this legislation before the community and for encouraging comment and debate on that legislation, because it has produced, I think, a Bill which has had a few improvements made to it. Legislation of this kind is so incredibly important, incredibly sensitive and incredibly dangerous in some respects that we are warranted in taking that time to discover those sorts of problems and identify them in the course of this process.

I believe that the amendments foreshadowed by Mr Stefaniak are appropriate. It astonishes me that we should consider outlawing discrimination on the basis of status as a parent or carer, race or political conviction, while making no reference at all to one of the most common forms of discrimination, and that is discrimination on the basis of whether or not one belongs to a trade union or to particular sorts of professional associations. Clearly, that is a major cause of concern. It is a major problem for many people in this community every year as they seek to gain employment. For us to leave aside that very important case of discrimination would be, I think, quite reprehensible. As such, I think it behoves us to ensure that that is covered properly in this legislation.

I commend the Bill to the house. I have a concern about the very large volume of amendments being put forward tonight. I have to say that I am not really in favour of us trying to push all those amendments through tonight. They have multiplied across my desk, in the space of the last couple of hours, at an alarming rate. I have to say that I hope we will be very careful about the process of passing these sorts of things into law without very careful consideration of what we are doing. But, as I have indicated, very clearly, the Liberal Party believes that legislation of this kind is a major advance for the citizens of this Territory.

MR DUBY (10.09): I am proud to be part of this Assembly which is involved in passing this historic legislation in the ACT, the Human Rights and Equal Opportunity Bill 1991. Whether we disagree or agree with the title of the Bill is immaterial. The fact remains that, like everything, the proof of the pudding is in the eating. The simple fact is that the very many provisions which are in this Bill will, hopefully, put to rest the issue of discrimination against persons on a whole range of issues in the Territory. It will bring the Territory into line with other jurisdictions in Australia with similar legislation in place. At the end of the day, members of this first Assembly will be able to say that we are proud that we were able to pass this legislation and put it into place so that we can hold our heads high in this Territory and say, "Yes, we support these particular issues".

Of course, as Mr Humphries has mentioned, quite a number of amendments have been proposed by various members this evening. I have been busily - as has everyone else, I imagine - cross-referencing them to the original Bill. Nevertheless, I do not share Mr Humphries' view that we should defer consideration of this Bill tonight, if that is what he was suggesting. I think we should get on and get it through so that this historic legislation can indeed be placed into effect in the ACT. I certainly support the Bill in most of its provisions and indeed in the spirit in which it is written. I think most members of this Assembly will join with me in congratulating the Government for bringing this forward.

MR MOORE (10.11): I think a great day has come in that we are now in a position to debate the Human Rights and Equal Opportunity Bill. It is an issue that certainly Mr Collaery and I had discussed back in the days when I was a member of the Residents Rally, and I am aware that Mr Collaery had pushed for it for a long time. I am sure that it is a great disappointment to him that he has not been able to be the person introducing this Bill. However, it has been introduced - by Ms Follett, who, of course, also has had a long involvement in the area.

I think that the Bill will reflect the attitude, shared widely in this Assembly, that it is appropriate that human rights and equal opportunity issues be taken very seriously by members of this Assembly, as they are by all members of the community, and that we can work together, particularly this evening, to come out with the best possible Bill. When I finish going through each of the amendments and working out exactly the ramifications of them as we go, and as the debate continues, I am sure that we will come up with the best possible Bill that this Assembly can provide - one that we can use to protect people's rights throughout the ACT.

MRS NOLAN (10.12): Mr Temporary Deputy Speaker, I will be supporting this Bill - the Human Rights and Equal Opportunity Bill - which provides very comprehensive protection for the ACT community. It is unfortunate that, before this, no such legislation has been in place to protect us from discrimination or sexual harassment. It is unfortunate, too, that society today requires such legislation; but, unfortunately, there is an enormous need for complaint resolution. Social equity and promotion of equality of opportunity for the ACT community will protect the rights of those who are disadvantaged and discriminated against - in particular, women, people with disabilities and the aged, to name but a few.

It is unfortunate that there are people who discriminate against members of our community. Very often those members of our community are women. I could go on and elaborate on that, but that is probably not appropriate at this point in time. I will contain my remarks at this stage of the debate to two areas of particular concern to me. Those two areas are family responsibilities and age discrimination. I must say that I am pleased to see that the Chief Minister will continue to support the Standing Committee of Attorneys-General working party's reference to examine superannuation, compulsory age retirement and pensions. I am particularly concerned to see the results of the Federal working party regarding age discrimination.

Only today, many pages of amendments have been passed around. It is unfortunate that many of these were not discussed with other members prior to this evening. I must agree with Mr Humphries and others that these numerous amendments need to be looked at in some detail. As I said at the outset, I will be supporting this Bill. I am sure that this Bill reflects our concerns on this very important subject.

MS MAHER (10.15): I am happy to speak in support of this legislation. It is a comprehensive package of legislation which will go some way towards addressing various forms of unfair discrimination, both direct and indirect, which occur in the Territory. The concepts of unlawful discrimination and equality of opportunity are well deserving of full legislative support. At its best, the Bill will allow for the dignity of choice without undue

concern at all levels of human endeavour. Such important initiatives are, of course, bipartisan. I note the work of the former Attorney-General, Mr Collaery, and wish to say that I agree with the comments made that this legislation was worked on very intensely during the time of the Alliance Government.

Ms Follett's Bill casts a wide net and covers many areas. One area of particular interest to me is the provision making it unlawful to discriminate against a person on the grounds of being a parent or having responsibility as a carer. Many of us seek to balance the dual roles of parent and worker, with varying degrees of success. This is a major issue for Australia, not just on the grounds of human rights and equal opportunity but also on the grounds of health and well-being. It stands to reason that conflict between work and family responsibilities must affect morale and productivity - two components vital to the long-term interests of the community as a whole. Child-care and aged care become major issues within the context of human rights and equal opportunity.

It is interesting to note that, according to recent articles in the *Business Review Weekly* by Michelle Gilchrist, 86 per cent of women aged between 20 and 55 now work, compared with less than 28 per cent 30 years ago. In 56 per cent of two-parent families with dependent children, both parents work, and 46 per cent of all single mothers are now employed. As the Government is urging single parents to remain at work instead of receiving social welfare, there are more workers without a parent to help with problems at home. These figures reflect the significant social change which has occurred since the early 1960s. May I say that, in many jobs, women are still paid less than their male counterparts. It is great to see that this is slowly changing, but a bigger change still needs to come.

How do governments respond to these dramatic changes? One way, which Ms Follett noted in her speech on the Bill, is the Federal Government's recent ratification of the International Labour Organisation convention No. 156, Workers with Family Responsibilities. In ratifying the convention, and in establishing the work and family unit within the Department of Industrial Relations, the Federal Government has acknowledged that social, demographic and economic developments are changing the way that families and the work force interact. The work of the unit involves examining particular measures which assist workers to balance their responsibilities, therefore giving them a fairer go with regard to interacting both at their family level and at the employment level.

In addition, a growing number of companies and government bodies are responding in their own way by developing more flexible working arrangements to retain skilled workers, and therefore giving a better opportunity to workers. The Australian Taxation Office, for example, provides

child-care to its employees. The Melbourne electronics company, Ericsson, is building a child-care centre jointly with the Department of Education. And, locally, John James Memorial Hospital is introducing more flexible working arrangements, based on award provisions.

These are practical measures which benefit the community as a whole. That is why it is all the more astounding that Ms Follett introduces legislation to protect the rights of workers on the one hand and, on the other, considers cutting staff in the children's day care services area at a time when demand has hardly been higher. I think that this is a contradiction - and that is not to mention the rights of the children in those child-care centres who are entitled to the best possible care that we can offer them. So, while Ms Follett's Bill appears, on the surface, to be in line with national and international initiatives, in practice I am not quite sure that it is fully living up to those standards.

In conclusion, while I strongly support protection in law for workers with family responsibilities, I support equally initiatives to assist both employees and employers to find a balance between the demands of work and families. I have spoken on just one issue; we could go on and talk about many more. Discrimination against women is another big issue. This legislation will help prevent that from happening. A lot of amendments have been put before us this evening, and I feel that they need to be fully looked at in detail. It might be best to adjourn this debate.

MR KAINE (Leader of the Opposition) (10.22): Madam Temporary Deputy Speaker, members of the Liberal Party have already made it clear that the party supports this legislation. It does so because there is no place in any modern and reasonable society for discrimination on any ground whatsoever. Clause 7 of this Bill talks about discrimination on a whole range of grounds - sex, sexuality, marital status, race, religion and the like. There is one major omission there, and that is discrimination on the basis of age.

Dr Kinloch: Hear, hear!

MR KAINE: I agree with Dr Kinloch. A lot of people in our community are going to ask us, "Why is it that this very comprehensive Bill says nothing about discrimination on the basis of age?". I think that people deserve an explanation.

Generally speaking, I suspect that, when one thinks of discrimination on the basis of age, one generally thinks of people who are older people. I refer to people who are discriminated against in employment because they are reaching an age of 50, 55 or 60 and are perhaps no longer considered to be competent at their job, or people of whom it is thought, "They are going to retire soon and we might as well get rid of them now".

There are even statutory prescriptions against membership of statutory bodies on the basis of age. I submit that those statutory prescriptions need to be removed. In fact, one of the first things that I was able to do when I became Chief Minister was that, when a draft Bill came before me that had a prescription that nobody could belong to a certain body covered by that Bill after they reached the age of 65, I took my notorious red pen and struck it out. I said that there is no place for that kind of prescription because it presupposes that people become incompetent at the age of 65 or 60 or whatever.

I suspect that the reason why age is not included in this Bill as a basis for discrimination is that it is not that simple. Discrimination on the basis of age does not apply only to old people. During my lifetime I can recall many circumstances where people have been discriminated against because they were young. Even today, in some fields of employment young people are taken on and when they reach a certain age they are fired because it puts them into an adult wage bracket.

Mr Collaery: McDonalds.

MR KAINE: That is perhaps one instance. It is not so prevalent today because there is not the clear distinction between junior wages and adult wages that there used to be; but there is still discrimination, I am quite sure, in some places on the basis of young age, not old age. I can remember, in my lifetime, when women of a certain age were discriminated against in terms of seeking employment because they were in the age group in which they might become pregnant. It was not discrimination because they were women; it was discrimination because they were women of a certain age, and potential employers saw them as a potential hazard in terms of instability of employment because they might become pregnant and have to leave their job.

So, discrimination on the basis of age is not a simple matter. It is not a matter that is susceptible to easy definition. I suspect that that is the reason why, when people began to draft this legislation - and Mr Collaery, from his legal point of view, may well have commented on this, and perhaps Mr Connolly may be inclined to do so - they found it too difficult to prescribe that there shall be no discrimination on the basis of age, because one has to define what one means by that.

As I said at the beginning, those older people out there who perceive discrimination in today's world based on old age, rather than young age, need to be assured that we are not deliberately excluding them from this Bill because we do not believe that they deserve to be legislated for in terms of discrimination. They need to be assured that consideration of this aspect of discrimination is going on;

and that, when the complexities of defining and legislating for discrimination on the basis of age have been sorted out and we reach a point where we can define what we mean by discrimination on the basis of age, at all ages, there will be incorporated in this Act a provision against such discrimination. I believe that that needs to be made clear. We are not discriminating against the ageing when we exclude them from this discrimination Bill, and I would like that to be on the record.

MR JENSEN (10.27): In commencing my remarks I will make some brief comments on the parentage of this Bill, and who has had the responsibility for its preparation. As has already been said in debate tonight, the legislative counsel's office has prepared this Bill; but, of course, on the instructions of a responsible Minister, following agreement by a Cabinet. There is no doubt that both those things happened. The Alliance Government approved the preparation of a Discrimination Bill, as it was then called, and it would appear that, since the change of government, Ms Follett's Government has also approved a Bill on this particular subject.

My understanding is that, in fact, it was not drafting instructions that were prepared under the instructions of the Follett Cabinet; it was a discussion paper. I think we have been down this path before in relation to other legislation. There is, I would suggest, a major difference between drafting instructions and discussion papers. I do not think anyone would doubt that. So, let us call a spade a spade, when it is a spade and not a shovel, and let us stop beating around the bush. The clear fact of the matter is that the drafting instructions for the legislation that we are discussing tonight were produced under the direction of my colleague Mr Collaery, via and with the approval of the Alliance Cabinet.

It is most unfortunate that the debate on a Bill as important as this has had to include these sorts of comments. It would have been quite appropriate, I would suggest, for Ms Follett to very graciously admit and accept the fact that this Bill has been the result of a process spanning three governments. She should not have claimed this Bill as her own, as she did on ABC radio. Let the record show, Ms Follett, that that is what you did, and I think you will be judged accordingly.

As one who carefully helped check the Bill tabled by Ms Follett against the draft Bill produced on the instructions of my colleague Mr Collaery, I can assure you that I found very, very few changes in that legislation - and any that were there were marginal. I will therefore wait with interest to see how Ms Follett comments on these suggestions concerning who was actually responsible for the Bill, and on her comments made on ABC radio not that long ago.

I would now like to turn to an interesting issue affecting many residents of the ACT, concerning how this Bill relates to a recent initiative by the defence forces. My examination would tend to suggest that the particular program to which I refer could, in fact, infringe clause 7 of this Bill. I am not sure, but I understand that Defence has policies in relation to the employment of women in certain parts of the defence forces. Whether those policies are actually enshrined in legislation is another question. It would seem that this legislation that we see here tonight will, in fact, have a major influence on the employment of women within the defence forces, because it would appear that there is no Federal legislation like this. Because of this, on my advice, it would appear that this legislation would apply.

Let me turn to some of the information that has recently been circulated by the various defence forces on what has been called the Ready Reserve scheme, announced quite appropriately up in Brisbane at the Bulimba army barracks by the Prime Minister, Mr Hawke, not that long ago. In fact, it was probably on 2 October 1991, according to the Queensland *Courier-Mail,* that Mr Hawke announced this scheme to the people of Australia, accompanied by a Defence press release dated 30 September 1991 which spoke about the Ready Reserve campaign.

It is very interesting to look through some of the documentation relating to this scheme. Looking at one document for the Air Force's Defence Force Ready Reserve scheme, it would seem to me, on my reading of it, that all they are really interested in is employing males, because it says:

> You'll have to be male aged 17 to 29 for a start.

It also says:

> ... government policy -

note, "government policy", not government legislation -

> does not allow women to fill combat positions.

I understand that similar comments are made in the documentation related to the Navy. However, the Army is a little more enlightened in this area, and in it women are increasingly being employed in combat-related duties.

Mr Kaine: Do you want them up in the front rank in the Army, Norm?

MR JENSEN: Mr Kaine, for your information, women are now being employed within the ranks of the Royal Australian Infantry, provided that they go forward and return pretty sharpish. My understanding is that there has been a change of policy in that area, although there have been some indications that in some of the other combat arms women are not normally employed at the moment.

I am referring to the artillery corps, the armoured corps and the engineers. It is stated in these rather glossy brochures. It seems to me that the only one of the services in which women are allowed to enter this Ready Reserve program is the Army. This means that, under this new scheme, two-thirds of the services are not available to that is, women are not able to enlist under the Ready Reserve scheme in either the RAAF or the Navy. For example, as I have already indicated, the RAAF recruitment pamphlet says:

> What does it take to get in? You'll have to be male ...

This statement would appear to be in conflict with the proposed legislation that is before us, because clause 7 states:

> This Act applies to discrimination on the ground of any of the following attributes:
>
> (a) sex;
>
> (b) sexuality;
>
> ... ...

In relation to unlawful discrimination, in subclause 10(1), it says:

> It is unlawful for an employer to discriminate against a person -
>
> (a) in the arrangements made for the purpose of determining who should be offered employment;
>
> ... ...
>
> (c) in the terms or conditions on which employment is offered.

So, it would seem that, once this proposed legislation is passed and becomes law, unless there is equivalent Federal legislation to override it, employment within the Ready Reserve will be in breach of the ACT discrimination Bill, as I like to call it. We could argue that this scheme, therefore, is aimed essentially at promoting male occupancy of positions within military and civilian life because the scheme promotes the idea that personnel involved in the Ready Reserve are able to have success in civilian careers.

Does this very important proposal, which was launched by the Prime Minister, mean that women are to be denied additional assistance in gaining employment? That is a very interesting point that I think we should consider because, as I have already indicated, the RAAF policy says

that government policy does not allow women to fill combat positions. There are numerous non-combat roles in the RAAF and the Navy which women can perform; but it would appear that this particular program, with all the benefits that it provides - education and additional possibilities for future employment - will not be available to a large number of important representatives of our community.

As I have already indicated, women are performing non-combat roles in the infantry, which, as we all know, is considered to be one of the most combat orientated corps of the Army. Therefore, I would see little justification for the total exclusion of women from the RAAF and the Navy Ready Reserve schemes.

In relation to discrimination, it would also seem that in the Air Force the only people who are going to be able to have access to this program are those who are prepared to participate in the Armed Defence Unit, which protects Air Force bases. Once again, we can see a degree of discrimination because we can now argue that anyone else, male or female, who wants to participate in this scheme is not able to do so; they are not able to serve in this scheme in other parts of the defence forces.

On that basis, it would seem that, because of this very far-thinking legislation, the Australian Government may have to do some quick and fancy footwork to bring in its own legislation or do something about the influence of this legislation on members, male and female, of the Defence Force or people who wish to seek a career in the Defence Force and subsequently within civilian life via this Defence Force Ready Reserve scheme.

I think it is a very interesting issue. Once again, despite all the smart comments that have been made against us in the past by various people outside, the ACT is producing far-thinking, far-reaching legislation. When the history of the First Assembly of the ACT is written, I think there will be much said about the far-thinking and important legislation which has been passed by it and which on occasions has been seen to be less than important. I think this sort of legislation - the weapons legislation is another example - shows that the ACT political group can lead this country. With those remarks and at this late hour, I think it is appropriate to conclude.

MR STEVENSON (10.39): I agree that a society in which people accept each other without regard for race, colour or creed would be better. I do not believe that this Bill, particularly in its current form, would achieve that goal. I believe that, if passed, it would create thousands of new law-breakers; indeed, it would create discrimination against many individuals and groups, however unmeant that may be.

The Bill would also remove for its purposes many of our common law rights. As an example I will take some of the clauses. Clause 8 of this Bill goes close to creating thought offences and is actually an attack on freedom of speech. It makes it an offence to even voice certain proposals. It could prevent people from discussing certain things. For example, if someone proposed to another that it was appropriate for them to hire a woman receptionist for their doctors' surgery, upon making that proposal, under clauses 8 and 10, they may have broken the law because discrimination within the Bill includes a proposal to discriminate.

Under clause 10 the Bill discriminates against employers, both small and large, by forcing them to pay for the biases or viewpoints of other people. I think this is a very important point that we need to look at. If the marketplace discriminates, the employer would be forced to bear the cost of government policy. In this current economic climate small businesses cannot really afford to pay any more than they already pay.

Let me take an example of a receptionist in a beauty salon. A woman of equal ability will always be a better receptionist than a man. Why? Some women are embarrassed to talk to a man on the phone about certain beauty treatments - specifically, bikini lines and others. Inside the salon a woman client may be reluctant to discuss with a male receptionist certain matters relating to women. For these reasons she may take her business elsewhere. Under this legislation a business which is forced to hire a man may well be placed at a disadvantage over one who happened to have a woman receptionist. In other words, it would be discriminated against. The exception clause, clause 34, does not apply to this or other examples that I raise. It is certainly possible that similar situations may exist in many other industries.

Clause 11 could compel business owners to pay for the time that staff spend on what are called "reasonable religious practices". This in itself, I feel, is unjust. The Bill also fails to define what is reasonable or what is a religious practice. Who could determine what such a definition could be held to include now or in the future? It could actually force business owners to accept someone practising a religion, regardless of how much such a practice may go against the spiritual or moral values of the owner of the business. If an employee had a sincerely held religious belief or practice that required him or her to pray twice during the working day or evening, as it may be, for about 15 minutes each time, while the Bill does not require the employer to pay, it is open to the suggestion that docking the worker's pay for the time spent could constitute discrimination on the grounds of religion.

It is one thing for an Act to make discrimination unlawful; it is quite another for an Act to require, in effect, reverse discrimination or support for a particular attribute, specifically, attributes relating to homosexuality, transsexuality, religious or political conviction or impairment. In the example that I just mentioned, not only is it the case that the employer must permit such religious practices but also the employer is, by implication, forced to pay for, in this case, what would amount to three weeks' pay a year for each employee, in support of those activities. The Bill states that you must not discriminate; yet at the same time it effectively requires groups, such as employers, to positively support such attributes.

Under clause 12 a principal cannot hire commission agents of one sex only, even if the principal is convinced that a woman is better suited to market his product; for example, goods or services for a baby which are sold door to door. It is reasonable to think that a woman, perhaps even specifically a mother, may well be a better representative in this circumstance. Also, would not a woman at home alone in the day be more ready to admit another woman into her home, from a security aspect? Under this Bill it would not matter that the principal is certain that women agents make more sales; he would be breaking the law if he discriminated in that way. If the business owner abided by this law, he could well be financially disadvantaged or, in other words, discriminated against.

If a home owner had a flat at the rear of his home, clause 21 could compel him to let it out to, for example, two homosexuals, even though his children may regularly play in the yard and would come into contact with those homosexuals and the landlord believed that it is entirely inappropriate for his young children to be exposed to homosexuals or homosexual acts such as kissing. Clause 23 would make it unlawful for the landlord to ask another landlord whether the prospective tenants were homosexual, transsexual or political or religious extremists.

Some people work to maintain or change values in our society. Under clause 31 this Bill could force such people to hire and work with people who hold diametrically opposed values. It could place their very aims in danger of being broken down by people working within their own group. For example, a group that was dedicated to supporting the very values that this legislation seeks to introduce would have no right whatsoever to refuse to hire a telephonist or office manager who holds the view that this type of legislation is social engineering at its worst.

Under clause 44 the Bill allows politicians and political parties hiring employees to discriminate as to political values or convictions. The Bill, however, prevents others from discriminating in the same way as to religious values or convictions. Where is the justice in this attempt at discrimination by the Government that holds political

values above religious values? Such groups discriminated against here could range from the National Farmers Federation to Citizens Against Pornography. This Bill could force a particular group campaigning against transsexuality, for example, to accept a transsexual as a staff member. One would assume that in a democracy people are entitled to develop a campaign against various activities that they believe are wrong.

It would seem that clause 44 is not wide enough to cover all categories - or is it? Does "political party" include organisations involved in political activity - for example, lobbying governments about transsexuality? If so, does it relate to the whole organisation or only to the actual activity which is of a political nature? A further inconsistency is what is meant by "political conviction". Does it, for example, include activities of a political nature? On the face of it, it would seem not to, on the basis that a belief is not an act; but then that would suggest that one is entitled to discriminate against a person who is involved in a political activity but who does not hold a political conviction. I could join the Labor Party as a public relations officer, but that would not mean that I share the political convictions of that organisation.

Clauses 44 and 45 provide some exemptions from discrimination on political or religious grounds. Not all convictions are political or religious. In not allowing any exemptions for moral convictions, the Bill discriminates against people who hold them.

I believe that the Bill, in effect, could create a Star Chamber in the ACT, with vast powers which our Australian Constitution and common law not only have never permitted but have protected people from. The Bill reverses many common law principles that have protected Australians against political tyranny for generations. Clause 75 includes the situation in which the commissioner is not bound by rules of evidence in conducting an investigation. That clause also allows the commissioner to determine what procedures will be followed in an investigation or to change those procedures at the commissioner's decision or whim. What this power could mean can only be guessed at.

Under clause 77, the commissioner can compel any person, not just the alleged offender, to attend a private hearing. That clause removes the common law right of the alleged offender to be represented by legal counsel. The mere fact that the Bill contains this clause is an indication that it has not been looked at thoroughly or that there is something wrong with the intention of the Bill. Every individual should have the right to legal counsel in actions of this nature.

Clause 78 grants the commissioner wide powers to determine what procedures should be followed during a public hearing, yet no standard procedure is laid down. Clause 79 says that the commissioner will give each party written notice of the time and place of a public hearing but lays down no procedure to follow if the alleged offender is unable to attend at the stated time and place. Clause 80 removes the common law right of the alleged offender to be represented by legal counsel at a public hearing, in this case, as against the private hearing to which I referred earlier.

Under clause 81 the commissioner could compel any person, not just the alleged offender, to write down his or her thoughts and present that document to the commissioner at a specified time and place, if the commissioner has decided that the person has some relevant information. I believe that this is a bizarre power. Our common law allows every individual the right to refuse to answer questions if they wish; under clause 82 this Bill destroys that right by making it a serious offence not to answer questions.

Clause 84 permits the commissioner to order that information may be suppressed. This power is not qualified within the Bill, which does not require the commissioner to have reasonable grounds to do so. Under common law one also has the right not to incriminate oneself. This right does not exist under this Bill and is removed by clause 92. It not only removes this right from an alleged offender; it also removes it from anyone else who appears, either voluntarily or compulsorily, before the commissioner.

Clause 96 allows a person to be held to have a "state of mind" in relation to particular conduct if such conduct was engaged in by an agent of the person, even though the person may not have known of the agent's specific action that was discriminatory. Let us take an example of using an employment agent to hire staff. The employment agent could well have the authority to hire staff on behalf of a business. It would seem that, under clause 96, if the employment agent discriminated against someone in hiring one of the businessman's staff, the businessman could be held to have had a "state of mind" in relation to that conduct. The businessman would have the opportunity to establish that he took reasonable precautions to avoid the conduct. However, the onus of proof is reversed. It is no longer a requirement that you have to be proved guilty; you have to prove yourself innocent.

There are many more contradictions, flaws, badly worded clauses, and grave concerns about the removal of individual rights by this Bill than those that I have already mentioned. I believe that it is bad legislation, and that it throws too wide a net. Further, although a person may seek a review by the Administrative Appeals Tribunal, nothing in the Bill allows the parties to take the matter to court for an appeal against the finding of the commissioner. One must ask why a person is not entitled to seek a remedy for unlawful discrimination through the courts.

Logic tells us that many will see clauses of the Bill as unjust, unworkable and discriminatory. They will simply ignore its dictates and become the new law-breakers. If questioned about what the Government sees as their offences, many would say that they were not being discriminatory; it was for some other reason that they did not hire someone or that they let their accommodation to another. Thus, this Bill would have the effect that many people would no longer tell the truth. There are many inconsistencies that go to the very heart of this Bill. The Bill is there to enhance rights, yet in many cases it becomes an attack on rights.

Mr Deputy Speaker, as the majority of members of this Assembly support the Bill, my suggestion is to adjourn the Bill for one week to sort out the pages and pages of amendments, corrected amendments and corrected, corrected amendments, as well as three pages of an entirely new thrust to the Bill from Mr Collaery, which I have not even read yet - it was tabled at only 8.30 tonight.

Mr Collaery: There might be a colleague in Western Australia you want to talk to.

MR STEVENSON: Mr Collaery says that there may be a colleague in Western Australia. Certain legislation was introduced as a separate Bill in Western Australia, but he is trying to introduce it as an amendment to this Bill. I intend to move the adjournment in the detail stage.

MS FOLLETT (Chief Minister and Treasurer) (10.55), in reply: I thank all members for their comments on this Bill. It is certainly a piece of legislation that is worthy of the close attention of all members and it has had it. Mr Deputy Speaker, rather than go through a lot of the detail, in my closing remarks on the in-principle stage I will simply refer to the major points made by members. Where other points are the subject of amendments I will deal with those points at that stage. So, my remarks will be fairly general at this stage.

A number of members expressed a view about who should claim responsibility for this Bill. I think it is a quite healthy sign that they all want to, but I think it is worth saying that nobody in the Alliance Government had access to the Cabinet documents of the first Labor Government. You deny that at your own risk. It is a fact, Mr Deputy Speaker, that my Government took a decision to have this legislation drafted. We took that decision in 1989. We took that decision following upon the release of a discussion paper in November 1989. The press announcement that accompanied that discussion paper said, "The Chief Minister was releasing a policy discussion paper which outlines details of the legislation currently being drafted for the Government". So, I place that on the record. The former members of the Alliance cannot deny that it was the Labor Government that began this process.

In my introduction of the legislation we have before us I did acknowledge the work done by the Alliance. I know that they do not feel that I grovelled sufficiently, but I certainly did acknowledge it. I should also point out that during our period in opposition we also introduced a Human Rights Bill as a private members' Bill in May of 1990. I find it very ironical that it was members opposite who used section 65 to deny any debate on that Bill. So, you cannot say that we have not kept trying to make progress on this Bill.

I would also like to point out, Mr Deputy Speaker, that the 1989 budget and the 1990 budget both contained provision for a human rights office in Canberra. We lost office before that could be provided in 1989 and the Alliance did not do that. The Alliance funded such an office in its 1990 budget and did not do it. So, I am afraid that the remarks that I have made about the apparent lack of action - I accept that there may have been a lot going on behind the scenes, but nothing came up front - during the period of the Alliance are true.

I would like finally, on the question of ownership of this Bill, to ask: If members of the former Alliance wish to claim it as theirs, then what on earth are these? There are pages and pages of proposed amendments to this Bill, circulated for the most part by Mr Stefaniak and Mr Collaery. How can you claim it as your own and then amend major sections, practically every clause? It just does not make sense. It simply does not make sense. You cannot have it both ways.

I would like to go through some of the changes that have occurred in this Bill. There has been considerable work done on the Bill since Labor took office again. Some of these changes were made following consultation with the Commonwealth Human Rights and Equal Opportunity Commission, and others were made to bring the Bill more into line with our own Government's policy. I will outline some of those changes.

Firstly, the name of the Bill was changed, and that was changed for a very good reason. We believe that the Bill should emphasise the positive concepts which lie at the base of this kind of legislation, for example, the promotion of equal opportunity.

Also in this Bill we have expanded and clarified the definition of "transsexual", and the provision which required a complainant to choose whether to proceed under the Commonwealth legislation or the Territory legislation has been removed. There was concern that this provision may cut off a complainant's right of redress if the wrong choice was made. Instead, Mr Deputy Speaker, the commissioner has been given the power to decide not to investigate a complaint where the matter has already been dealt with adequately. It is a much more flexible approach which will not disadvantage complainants.

The definition of "associate" was modified to explicitly include relatives, to ensure that people who are discriminated against because they are related to someone in one of the protective classes are protected. A clause which exempted requests for medical information was removed. Now only requests for information where that information will not be used for discriminatory purposes are allowed.

The definition of what constitutes sexual harassment was broadened. The Alliance Bill definition included statements of a sexual nature which were made to a person about that person. This was considered too narrow as statements of a general sexual nature may be quite harassing, although not specifically about the complainant. The new definition includes statements of a sexual nature to, or in the presence of, a person, whether or not the statements are about that person.

Another change is that the breach of a direction of the commissioner is a criminal offence under the Bill. In the Alliance version such an offence carried the maximum penalty of $2,000 for an individual and $10,000 for a body corporate. This was not considered tough enough; so, the new penalty is $500 for every day that the commission's direction is not followed. A final change is that the definition of "employment" has been expanded so that unpaid workers are also protected from discrimination in employment.

Mr Deputy Speaker, Mr Humphries drew attention to the difficulties that have been had in some jurisdictions over the definition of what constitutes discrimination. He quite rightly pointed out that it has been the subject of many hours of court time. I would like to say that the definition that is contained in this Bill is in plain English. That it has been taken out of that very legalistic sphere is quite a change.

Under the Bill that we have before us, direct discrimination is to treat someone unfavourably because of his or her sex, sexuality, marital status, religious or political conviction, and so on. Indirect discrimination is to impose a condition or requirement which will or is likely to disadvantage people because they have one of the protected attributes. So, I take Mr Humphries' point on that, and I would like to say that I think it has been addressed in a quite practical way in the Bill.

Mr Kaine raised the issue of protection against discrimination on the grounds of age. Mr Kaine is quite correct in saying that this is a very difficult issue. In fact, at this point, I think it is probably a little bit too difficult. I have been advised that the Standing Committee of Attorneys-General has had a look at the issue and has agreed that it would be up to the Commonwealth to do further work on it. In fact, the Standing Committee of

Attorneys-General agreed, and all States agreed, not to legislate themselves until the Commonwealth had completed that work. At this point, the Commonwealth is furthering the work on discrimination on the grounds of age and also the associated issue of superannuation. So, Mr Kaine is quite right there. I agree with him that it is a very difficult issue. It is one which does need to be addressed, and it is being addressed by the Commonwealth.

Mr Jensen raised the interesting question of whether this Bill would have an impact on the defence forces, and in particular on women's roles in combat duties. I would like to point out to Mr Jensen that the combination of section 28 of the Australian Capital Territory (Self-Government) Act and section 109 of the Constitution actually prevents my Bill from binding the defence forces.

Mr Kaine: Our Bill.

MS FOLLETT: Our Bill. I take that back, Mr Deputy Speaker. So, the situation which Mr Jensen feared, of the ACT's Bill obliging the Commonwealth to employ women in combat roles, will not arise. It is constitutionally impossible for that to occur, regrettable though it may be, Mr Deputy Speaker.

It is difficult to know where to start with Mr Stevenson's comments. I thought that, for a start, Mr Stevenson has a very long way to go in understanding what equal opportunity, discrimination and sexual harassment are all about; but I can assure him that his opening remarks about the creation of thought offences reflect a quite unfounded fear on his part. It is still a fact that you can think what you like, and I have no doubt that Mr Stevenson will continue to do so.

But I would like to comment in general on his remark that the Bill makes provision throughout all of its areas for areas where there is a genuine occupational qualification or a genuine requirement for a person to have particular attributes. If you look through the Bill you can see that the case of Mr Stevenson's receptionist in the beauty parlour is quite adequately dealt with. I refer members to paragraph 34(2)(i), on page 18, where there is this provision:

(i) the duties of the position involve providing persons of the relevant sex with services for the purpose of promoting their welfare where those services can most effectively be provided by a person of that sex.

There are further provisions there which relate to people who may be in a state of undress, where it is quite appropriate to have a person of a particular sex, and so on. Mr Stevenson, I think, has made up a lovely story, has woven a lovely story; but it is, unfortunately, quite unfounded. I do accept that I do not have Mr Stevenson's

broad education in matters of sex and sexuality, but I cannot agree with him that the act of kissing is confined to homosexuals. I found his argument there very difficult to follow.

He finally made some comments about the creation of a Star Chamber and so on. I have to point out to Mr Stevenson that the whole emphasis of this Bill is on conciliation. Whilst the commissioner will have very wide powers and very wide discretion, it will be the commissioner's role to try to bring the parties together, to try to get agreement on issues, and only when that process of conciliation breaks down do the penalties and criminal sanctions come into play. Really, Mr Speaker, I think that what we see in Mr Stevenson is a man who has set his mind against this legislation and is prepared to make any argument, however unfounded, however fanciful, to oppose it; so, I do not propose to deal in detail with his proposals.

I would like to thank members for their careful consideration of the Bill. I am very pleased to know that all parties, except Mr Stevenson, will be supporting the Bill and I think it really is a landmark in the life of this Assembly if we manage to get this sort of legislation passed.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

MR STEFANIAK (11.08): I move:

Page 1, line 5, omit *"Human Rights and Equal Opportunity"*, substitute *"Discrimination"*.

The purpose of the amendment is to change the title to what it was under the Alliance Government, and that is the Discrimination Bill. I alluded to this earlier, in my speech in the in-principle stage. This Bill is about discrimination. It goes through, at great length, and quite properly so, various types of discrimination it aims to counter and sets up a mechanism by which discrimination can be countered. Plain English and a reading of this Bill make it quite clear that it is all about discrimination, just as the Crimes Act is about various crimes. Accordingly, the name which this Bill would have had, had there still been an Alliance government, is the correct name.

This Bill, of course, touches on, quite considerably, human rights. It deals indeed with equal opportunity. But primarily it is all about discrimination and steps taken to counter discrimination. Accordingly, that is the correct name. I ask members to support this commonsense and sensible amendment.

MS FOLLETT (Chief Minister and Treasurer) (11.10): The Government opposes this amendment by Mr Stefaniak, and we do so for a very good reason. We changed the name of this Bill from the Discrimination Bill to the Human Rights and Equal Opportunity Bill in response to community comment that "discrimination" was too negative and that it would be valuable to have a title which emphasised the positive aspects of the legislation. I am aware, in particular, that the Women's Electoral Lobby and the South Australian Equal Opportunity Commission were very strong in making this point. I would like this Bill to have a positive impact; to actually act to change community understanding and perhaps to alert the community that this is something new. "Discrimination" is a fairly tired word, and for that reason I would much prefer the positive title.

I think that the title should reflect the important objects of the legislation; that it should promote equality of opportunity for everybody and that it is to protect the human rights of those who are disadvantaged in our society. I am sure that all members of the Assembly would agree with those objectives. As I say, part of the function of this legislation is to raise consciousness in the community, and I really do believe that a positive title helps to achieve this. If we look at the titles of similar legislation in other jurisdictions, I think you have to agree that Mr Stefaniak's amendment is a little bit out of line.

In New South Wales we have the Anti-Discrimination Act - anti; in Victoria, Equal Opportunity; in South Australia, Equal Opportunity; in Western Australia, Equal Opportunity; and the Commonwealth Act is the Human Rights and Equal Opportunity Commission Act. They also have other legislation - the Sex Discrimination Act and the Racial Discrimination Act. So, I again say that I favour the positive role in the title. I think it gives the legislation the sort of dignity and the sort of educative function that is appropriate to it, and I urge members to reject this amendment.

MR COLLAERY (11.12): As someone who has had a fair degree of discrimination tonight, I am interested in the term. When the Labor Government, on 3 December, rushed out a proposed discussion paper for legislation, the title of that paper was "Anti-Discrimination Legislation for the ACT". The discussion paper adopted the discrimination terminology. It said, in part: "The Government has decided to enact anti-discrimination legislation". It referred to the present framework of laws which use, for example, in the Commonwealth system, the Sex Discrimination Act, the Racial Discrimination Act, and so on.

The Chief Minister was not, of course, involved in the development of this legislation, except for a minor aspect which she referred to - changing one of the many definitions. The only involvement she had was in that. When the matter was being drafted it started off, in fact, from us, as it did from the Labor Party, as the proposed Anti-Discrimination Bill.

I want to put these matters squarely and fairly. I am aggrieved by the Chief Minister's refusal to apologise to the house. We will consider until Thursday what we should do about her. However, the fact is that we both used the term "Anti-Discrimination Bill". But then parliamentary counsel thought - and I recall this very clearly - that it should be "Discrimination Bill". The Bill deals with anti-discrimination and it deals with discrimination.

There are lots of passages in this Bill that allow discrimination. I will not bore the house, but members can go through them in the index. They will see that the Bill really deals with discrimination. It allows discrimination in a whole range of areas. As I said, when we get to it, it will be an interesting topic. Part IV lists - as exceptions to unlawful discrimination - insurance, superannuation and religious bodies.

I invite members to look at the table of provisions. If they look at Part III, they will see 14 headings for unlawful discrimination. In Part IV they will see 10 general exceptions to unlawful discrimination and nine exceptions relating to sex, marital status or pregnancy, which include genuine occupational qualifications, clubs for one sex, services for members of one sex, and pregnancy. Turn the page to page iii, and you see under Division 4 exceptions relating to religious or political convictions.

I invite members going through this index to note that the majority of provisions deal with discrimination, not with anti-discrimination. Let us be quite frank about this. Human rights is about discrimination as well as anti- discrimination. There has been a slow process of eroding discrimination; but the fact is that, if you look at the preamble to the Bill on the front page - as my colleague Mr Jensen has just reminded me - you will see that it says, "An Act to render certain kinds of discrimination unlawful and to provide for related matters".

We have a tendency in this Assembly - we are new - to want to follow other States. There is good sense in that. There is good sense for a number of reasons to follow New South Wales, because we are surrounded by that State. We have drafted here probably the best and latest version of this Bill in the British Commonwealth. This evening I have been looking through the Canadian legislation and similar legislation in North America at large. On balance - there is an argument either way - I believe that we should adopt

the preferred view put to me when I was Attorney. I received correspondence on it that said that it should be "Discrimination Bill". I will tell you why, from an ACT politician's point of view, I want to stick to "Discrimination Bill". We have the best Bill in the country. What is wrong with having a different name? We are setting the pace. We are setting a new benchmark in the country.

Again with Mr Jensen's help, I draw members' attention to the objects provision in the Bill, that is, clause 3. Of course, you see that it is to eliminate, as far as possible, discrimination and to promote recognition and acceptance within the community. One of the high roles of this Bill is to perform an educative function. The educative function is surely portrayed through the many provisions relating to acceptable exemptions and the ambit of acceptable exemptions. They include clubs - single sex clubs, ethnic clubs and all the rest. But ethnic clubs cannot go too far in their exceptions. The purpose and objects of the club have to be spelt out in their constitution so that they can discriminate. There is an educative process; there is a surveillance process - I use "surveillance" in its non-pejorative sense - that looks at these acceptable aspects of discrimination in a community.

I think that we should stick to a title that sets our Bill out for what it is. It deals with discrimination better than any other Bill that I have seen in the country. It does that because we had a massive response, which we will go through in the detail stage, from so many eminent authorities and advisers. I want to stress that, from the comments that we received, it is not a clear-cut case that the title should be "Human Rights and Equal Opportunity" or "Anti-Discrimination" or "Discrimination".

A very strong argument was put to me by the Women's Consultative Council, when I met with them, that it should not be "Discrimination" because that word is, of course, associated with the ills that the Women's Consultative Council particularly try to tackle. I determined that there was an emotive response from the Women's Consultative Council to that term, and I can understand it. That was the highest case that was put to me against the use of the term "discrimination".

When I look at the term "human rights" from the perspective of where I worked for years in human rights abroad and in Australia, I think in far broader terms than our local provincial legislation. Human rights deals with the UN convention on the rights of refugees. It deals with issues that go beyond this Bill, such as persecution on the basis of social origin. We have not included social origin or social class in this Bill. I am surprised that the Labor Party did not deal with that.

In the detail stage, I will point out that the Labor Party has had the Bill since I got it on 27 May and they have drawn up no substantive amendments to it. They have not changed it at all. If I had had another three months, I would have included social origin, because of socioeconomic discrimination. The Labor Party have not done it. I would have included a number of other areas as well.

The fact is that this Bill, on balance, deals with discrimination. It is far better to draw community attention to that generic term and that alone. The term "anti-discrimination" is judgmental; it is adversarial. You should know that HREOC, the Human Rights and Equal Opportunity Commission, did conduct a poll. Respondents to that poll demonstrated a clearer understanding of what "anti-discrimination" meant than of what "human rights" meant. I will settle for "discrimination" or "anti-discrimination". But, on balance, looking at how we structure our Act so that it is more non-judgmental, more educative and simply allows categories of discrimination, I believe that it should remain the "Discrimination Bill".

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.22): Mr Speaker, I have circulated an amendment which at first sight appears somewhat cryptic. I move, as an amendment to Mr Stefaniak's proposed amendment:

> Omit all words after "*and*".

The effect of this amendment, if carried, would be that Mr Stefaniak's amendment, as amended, would omit "Human Rights and", and thus, if his amendment, as amended, were carried, the title of the Bill would become "Equal Opportunity Bill".

The Labor Government, for the reasons stated very clearly by the Chief Minister, would prefer to keep the title "Human Rights and Equal Opportunity". Indeed, Mr Collaery made the case very well when he said in his speech, although he was arguing from a directly opposite perspective, that in the process of consultation over successive governments a very strong and uniform view emerged from women's groups in the community - from WEL in particular, from Marian Sawer at Canberra University and, as Mr Collaery said, from the Women's Consultative Council - that they did not like the title "Discrimination". They did not want this Bill to be called the Discrimination Bill, because that is a negative title.

We would prefer to call it the Human Rights and Equal Opportunity Bill; but, if members of the Assembly do not want to stick with that title, for whatever reason, I offer up this amendment. This amendment allows the Assembly to change the title, if they want to do that, to "Equal Opportunity Bill", and hence "Equal Opportunity Act". That would accommodate the strong and clearly expressed concern of women's groups that they do not want a negative title.

Coincidentally, it would give us a Bill that had the same title as equivalent legislation in Victoria, South Australia and Western Australia. It would bring us into line with what seems to be the prevalent State practice.

It is significant, of course, that the only State that is out of line with that practice is New South Wales, which at least has the sense to call its legislation the Anti-Discrimination Act. We really would be standing on our own if we were to call our legislation the Discrimination Act. The community has expressed its view against that fairly strongly. We certainly oppose the amendment put up by Mr Stefaniak and supported by Mr Collaery to call it the Discrimination Act. We are offering in the amendment I have moved something of a compromise.

If we want to change the title, let us change it to something which is positive. Let us call it the Equal Opportunity Act, which coincidentally has the advantage, as I say, of bringing us into line with what seems to be the established practice in the State jurisdictions. The community has expressed the clear view, as the Chief Minister said and as Mr Collaery said, that women's groups do not want the title "Discrimination Act". For the Assembly to change it from "Human Rights and Equal Opportunity" back to "Discrimination" is really flying in the face of that clearly expressed community will.

The matter is obviously in the hands of the Assembly. As a minority government, we need to offer up this compromise. But I would stress to members that my proposal would at least give us a title which avoided the negativism of "Discrimination Act" and did not throw back in the face of groups their strong view about a title which they would find offensive. It seems pointless in this type of legislation, of all types of legislation, to pick a title which groups have said they find offensive.

MR DUBY (11.26): Mr Speaker, I guess a rose by any other name would still smell as sweet. In a lot of ways, a few debating points are being made here in discussing the title of this Bill. As a matter of fact, it is almost like Middle Ages philosophers discussing how many angels can dance on the head of a pin, and how many cannot.

Mr Kaine: How many can?

MR DUBY: I do not know how many can. It is clear that there are political overtones in this discussion. The Government wished to call this Bill the Human Rights and Equal Opportunity Bill. In my view, it is not a human rights Bill, in the general acceptance of the phrase as determined by the average person in the street. "Human rights" refers to life and liberty and the things along those lines - the rights that would be encompassed in a Bill of Rights which set out the rights of individuals within a state. On the other hand, the Bill before us aims to protect persons from discrimination for whatever purpose.

To be honest with you, I think all sides in this argument are barking up the wrong tree. I personally agree with the name of the legislation as it exists in New South Wales, the Anti-Discrimination Act, because that is what this Bill is about. The simple fact remains that, if you talk to people in the street, you will find that they do not really know what a human rights Bill, a human rights and equal opportunity Bill or an equal opportunity Bill - or, for that matter, a discrimination Bill - would achieve. But they would know what an anti-discrimination Bill aimed to achieve. I am disappointed that I clearly do not have the support of fellow members of the Assembly to call it the Anti-Discrimination Bill.

Nevertheless, I believe that this is a matter of some importance for people on various sides. I certainly do not support the title "Human Rights". I think equal opportunity is, in effect, what the word "anti-discrimination" means in plain English. However, if we call it the Discrimination Bill, we are going to wind up with a discrimination commissioner, I would imagine. I would suggest as a further compromise - I am in a mood for it tonight - that we call it the Discrimination Bill, and call the officer appointed under the legislation the equal opportunity commissioner.

Mr Kaine: We could call him the anti-discrimination commissioner.

MR DUBY: All in all, I think we have between us about 17 combinations of various names and titles. As I said, to me, it does not matter all that much what the Bill is called, as long as the Bill is introduced and starts affecting the lives of the citizens in this Territory.

Question put:

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

The Assembly having voted -

MR SPEAKER: I raise a technicality. Dr Kinloch has left the chamber, but I am not sure whether he did that after the call was commenced. I am trying to establish whether there has been a breach of standing orders. Under the circumstances, with him not being in the chamber, I cannot address him; so, I cannot ask him when he actually left.

Dr Kinloch: May I make it very clear that I was engaged in an act of discrimination. The word "discrimination" means making a judgment between A and B; you discriminate. We are involved in a word game here, and I think it is very sad that we are doing this. I would like us to adjourn.

MR SPEAKER: Order! Dr Kinloch, I request you to resume your seat. Under the circumstances I would ask you: Were you present when the call commenced?

Dr Kinloch: At the time the call commenced, I was making an act of discrimination to try to decide whether I would play the word game. I am happy - - -

MR SPEAKER: Order! Resume your seat. Under the circumstances there has been a breach of standing orders, and I would ask the Clerk to re-call the Assembly.

The Assembly voted -

AYES, 9	***NOES, 7***
Mr Berry	Mr Collaery
Mr Connolly	Mr Humphries
Mr Duby	Mr Jensen
Ms Follett	Mr Kaine
Mrs Grassby	Mr Prowse
Ms Maher	Mr Stefaniak
Mr Moore	Mr Stevenson
Mrs Nolan	
Mr Wood	

Question so resolved in the affirmative.

Amendment (**Mr Stefaniak's**), as amended, negatived.

MR SPEAKER: The question now is: That the clause be agreed to.

Mr Jensen: Hang on! You said that the noes had it.

MR SPEAKER: The amendment, as amended, was negatived, which means that you go back to the original question.

Mr Moore: No amendment has been successful, so we are back to the original name now?

MR SPEAKER: That is right.

Mr Stefaniak: Mr Connolly's amendment was successful.

Mr Connolly: As I said, although I moved that amendment, we preferred to keep the original title. You were not paying attention. There is now no amendment before the house, so we have the original title.

Mr Humphries: Mr Speaker, I think that under standing orders there was some confusion about the vote.

Mr Berry: No, there was no confusion.

Mr Humphries: There was plenty of confusion, I can assure you. Mr Speaker, I think it was quite clear that Mr Connolly's amendment was successful and that therefore - - -

Mr Berry: I raise a point of order, Mr Speaker. You have ruled in favour of the noes and we should proceed now to deal with the - - -

MR SPEAKER: Order! There was certainly confusion and I was surprised at the result of the vote. The Assembly has voted that the amendment not go ahead.

Mr Duby: This is outrageous. If this is what you are trying to achieve - - -

Mr Connolly: I always said that we wanted to keep the original title.

Mr Duby: The amendment that you moved was to change it to Equal Opportunity Bill.

Mr Humphries: You are using a trick to get what you want. You are not going to get away with it. We will just come back to it and do it later.

MR SPEAKER: Order! Mr Humphries! Mr Duby! The situation is that you can move to review this clause at a later date, if you so wish. But at this time the clause is being put. The question is: That clause 1 be agreed to. Are you all clear on that? The question is: That clause 1 be agreed to.

Mr Humphries: Is this the amendment as agreed to?

MR SPEAKER: No amendments. This is the clause. There are no amendments.

Mr Humphries: Mr Speaker, you have gone back one step and I thank you for having done that.

MR SPEAKER: No, I have not. The question is: That clause 1 be agreed to. The question is that the clause as presented in the Bill be agreed to. Members, could I inform you that if you vote against the name of this Bill you will kill the Bill. What I am saying to you is that you can agree to this name at this time, clause 1 as presented, and you can review it later in the detail stage.

Mr Kaine: We would rather have it with no name and then come back and review it.

Question put:

That the clause be agreed to.

The Assembly voted -

AYES, 7	*NOES, 10*
Mr Berry	Mr Collaery
Mr Connolly	Mr Duby
Ms Follett	Mr Humphries
Mrs Grassby	Mr Jensen
Mr Moore	Mr Kaine
Mrs Nolan	Dr Kinloch
Mr Wood	Ms Maher
	Mr Prowse
	Mr Stefaniak
	Mr Stevenson

Question so resolved in the negative.

Clause 2

MR STEVENSON (11.40): Mr Speaker, I move:

That the debate be now adjourned and the resumption of the debate be made an order of the day for Thursday, 21 November.

MR SPEAKER: There are two questions before the house. The first one is that the debate be adjourned; the second is that the resumption of the debate be on Thursday, 21 November. So, I will put two questions.

Mr Stevenson: On a point of order, Mr Speaker - - -

MR SPEAKER: Just a moment, Mr Stevenson. Do not talk over me. You did not get the call. The first question is: That the debate be now adjourned. Mr Stevenson, do you have a point of order?

Mr Stevenson: Yes. I moved both motions at the one time. I did not separate them.

MR SPEAKER: Yes, but under standing orders they have to be split. I have done the right thing on your behalf, Mr Stevenson, where you failed. The question is: That the debate be now adjourned.

Question resolved in the affirmative.

Question put:

That the resumption of the debate be made an order of the day for Thursday, 21 November.

The Assembly voted -

AYES, 11	*NOES, 6*
Mr Collaery	Mr Berry
Mr Duby	Mr Connolly
Mr Humphries	Ms Follett
Mr Jensen	Mrs Grassby
Mr Kaine	Mr Moore
Dr Kinloch	Mr Wood
Ms Maher	
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	
Mr Stevenson	

Question so resolved in the affirmative.

PERSONAL EXPLANATION

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services): Mr Speaker, I claim to have been misrepresented and I wish to make a personal explanation under standing order 46. Mr Speaker, during the confusion of members opposite at the end of a vote recently it was loudly interjected that I had tricked or deceived or somehow conned members opposite. I find that very offensive. I am sure that when members opposite who made those remarks read the *Hansard* they will be prepared to retract that statement, because they will see very clearly in the *Hansard* that what I said was that the Government wanted to stick to the original title but we were moving an amendment to give members the option, if they wanted to change the title - which we did not - to a title which at least made some sense, namely, "Equal Opportunity Bill". That was carried.

The house then had a choice between the original title, which I had always said we supported - that is, the Human Rights and Equal Opportunity Bill - and an alternative title, the "Equal Opportunity Bill". In accordance with what I had said in my speech, I voted with my Labor

colleagues to oppose Mr Stefaniak's amendment and to retain the original title. Members opposite said that doing that was some sort of a trick or a con or a dodgy deal. I totally reject that and find it offensive. I hope that members, being honourable members, when they look at the *Hansard* will realise that that is the case. In fact, they perhaps had not - - -

Mr Collaery: Yes, it would be nice if your Chief Minister set an example on honour.

MR CONNOLLY: That simply does not rate a response from me, but it rates a withdrawal from him.

Mr Berry: On a point of order, Mr Speaker: He ought to be asked to withdraw that. That ought to be withdrawn. There was an imputation that Mr Connolly was dishonourable and it ought to be withdrawn.

Mr Collaery: Who from? I was not referring to Mr Connolly, Mr Speaker.

Mr Berry: It was Ms Follett.

MR SPEAKER: I would ask you to withdraw that accusation against the Chief Minister, please, Mr Collaery.

Mr Collaery: Mr Speaker, I remind you of what I said: It would be nice to see the Chief Minister behave as honourably as Mr Connolly had enjoined members to. If you wish me to withdraw that, I certainly will. I withdraw that.

MR SPEAKER: All right - as long as that is withdrawn.

Mr Humphries: Mr Speaker, I am the person Mr Connolly is referring to, and I withdraw any statement that gave him offence.

MR CONNOLLY: I thank Mr Humphries.

ADJOURNMENT

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

That the Assembly do now adjourn.

Human Rights Legislation

MR COLLAERY (11.47): Mr Speaker, I wish to rise briefly in the adjournment debate to express disappointment with the way in which the peaceful and humanitarian basis to the human rights legislation for passage in this Territory has been disturbed. I believe that the very introduction and passage of this legislation are threatened by the manner in which the Chief Minister produced it and the manner in which the Labor Party is behaving over it. I express extreme regret about that, and I trust that when we resume debate on the legislation on Thursday the aggro will be gone and the Labor Party will make some conciliatory moves in view of the facts which they can review in *Hansard* and in the documents tabled.

Question resolved in the affirmative.

Assembly adjourned at 11.48 pm

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ANSWERS TO QUESTIONS

Minister for Health

Legislative Assembly Question

Question No:428

Board of Health - Management Structure

Mr Humphries - asked the Minister for Health on Notice on 6 august 1991:

1 Will the Minister guarantee that the existing Board of Health management structure will not be altered.

2 What is the Executives policy on the management structure for the Board of Health.

3 If the Executive has no policy, why not. When will a policy be published. Will it be provided to the Assembly.

Mr Berry - the answer to Mr. Humphries question is as follows:

1. No

2&3 Standing and Temporary Orders 117 C (ii) states that Questions shall not ask the Minister:

to announce Executive policy, but may seek an explanation regarding the policy of the Executive and its application, and may ask the Chief minister whether a ministers statement represents Executive policy.

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MINISTER FOR HEALTH

LEGISLATIVE ASSEMBLY QUESTION

QUESTION 511

Health Centres - Staff Upgrade Program

Mr Humphries: To ask the Minister for Health:

1. Is it the case that the present government is implementing a program to update staff at ACT health centres; if so, how is the program currently being implemented.

2. Is it the case that some health centres have had staff upgraded before others; if so, in what order have health centres been selected to have staff upgraded; and how was this order determined.

3. Is it the case that the Narrabundah and City Health Centres have been left until last; if so, why is this the case; if not, when were staff at these health centres upgraded.

4. Why is-it that all AS01 staff in health centres were not upgraded at one time, given that their work is of a similar nature at each health centre.

5. Is the Minister considering back dating the pay of those staff who are last to be upgraded to- the date when the first staff were upgraded under this program; if not, are there any circumstances under which the Minister will consider such a move.

6. Is it the case that the Minister acknowledges that Atolls in health centres have been performing AS02 duties; if this is so, why have staff in some health centres been upgraded at a latter date than others.

7. What is the purpose of the work redesign program; how many work redesign project books have been completed and what are the basic recommendations contained in these books.

8. Is it the case that there are problems with adequate levels of word processing and computer software packages for training at some health centres; if so, which ones.

9. What steps will the minister take to ensure health centre staff are adequately trained in order to ensure that they have the correct skills to perform their duties.

10. What is the budget allocated for training junior administrative staff in the current financial year; and hot. has it been allocated.

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11. What steps have been taken to review community health centres; how much recurrent funding is spent on health centres in (a) North Canberra (b) Belconnen; (c) South Canberra; (d) Woden; (e) Weston Creek and (f) Tuggeranong.

12. Is it the case that the lions share of health centre funding is spent in North Canberra and Belconnen; if this is so, how can the Minister justify this disproportionate expenditure.

Mr Berry - The answer to Mr Humphries question is:

1. All ACT Health Centre ASO staff have been through a Work Redesign exercise as required under the ACOA/APSA 2nd Tier Agreement. The exercise has now been completed. One of the outcomes of the exercise has been the upgrading of most ASO positions.

2. Given the workload imposed by the process it was not possible to do all centres at the same time. The order in which they were done was decided by management and the Work Redesign Team after preliminary discussion with each health centre to determine their readiness to undertake the task.

3. Narrabundah and City Health Centres were the last 2 Health Centres to have their Work Redesign Report completed. The work groups themselves were responsible for working through and completing the task, and each Health Centre took a different length of time for the process.

4. The agreement under the ACOA/APSA 2nd Tier Agreement was that each work group should go through the work Redesign process individually. Each Health Centre had particular concerns about the way the clerical work was done and therefore quite separate recommendations. Upgrading of the ASO positions was not the main purpose of Work Redesign but a secondary benefit.

5. Upgrading will date from the signing of the instrument by the Delegate, once the Work Redesign Report has been tabled and ratified at the Joint Steering Committee. Management and the Union agreed that the only exceptions would be if 3 or more Joint Steering Committee meetings were cancelled, and then the date of effect would be the date on which the respective Executive Director approved the report.

6. Each Health Centre has now produced a report justifying the upgrading of AS01 staff to ASIA, and AS03 to ASIA. Additionally 2 Health Centres have justified the need for an AS03 position based on the complexity of the work. All centres are not identical and therefore each centre was required to just i fy the upgrading.

7. The purpose of the Work Redesign program is to create a

better work environment and increase productivity. This is done by multiskilling of clerical staff to enable them to advance their careers, and to receive job satisfaction from varied as opposed to repetitive tasks. Each Health Centre produced their own reports, Melba, Kippax, Belconnen, City, Phillip, Narrabundah, Weston Creek and Kambah. Each report contained a list of recommendations relating to the individual health centre, and therefore they were all different. These recommendations have been discussed with management and wherever possible the recommendations have been implemented.

8. All Health Centres except for Kippax now have Personal

Computers with word processing packages installed. We are awaiting installation of a new computer system for the Health Centres which will include additional hardware and software packages.

9. A number of Health Centre clerical staff have been trained

in basic computer training and wordprocessing. Priority for training is given to staff who have good keyboard skills and whose duty statements specify typing or work processing duties. It is desirable that each Health Centre should have a pool of proficient wordprocessors who may then assist in training those who are less proficient.

10. The budget allocated to training is 2.270 of the salaries budget in the Community Health Branch. Approvals for training for individual staff members are given on a needs basis. Every effort is taken to ensure junior administrative staff have access to the appropriate training.

11. The review of community health centres announced last year by the Alliance Government appeared to die a lingering death. We heard nothing but rumours of closure of various health centres. The long awaited options paper never materialised. The Labor Government is examining the full range of health services in the ACT with a view to delivering the highest quality of health care in the most effective way. This does not necessarily mean closure of health centres. Minor adjustments to the way in which health professionals are deployed can sharpen the focus of service to better meet changing client needs. Recurrent funding for health centres by area for 1990/91 was:

(a) North Canberra $ 713,000 (b) Belconnen $1,793,000 (c) South Canberra $ 722,000
(d) Woden $ 487,000 (e) Weston Creek $ 204,000 (f) Tuggeranong $ 467 ,000

Recurrent funding for the previous year, 1989/90 was:

(a) North Canberra $ 700,000
(b) Belconnen $1,737,200
(c) South Canberra $ 706,900
(d) Woden $ 414,000
(e) Weston Creek $ 191,300
(f) Tuggeranong $ 417,200

12. While Weston Creek Health Centre was open, expenditure on health centre services for North Canberra and Belconnen was 57$ of total amount compared with 43$ for South Canberra. After closure of Weston Creek Health Centre, the expenditure for North Canberra and Belconnen amounts to 55$ compared to 45% for South Canberra.

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