DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

3 December 1991

Tuesday, 3 December 1991

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

ORDER OF BUSINESS

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

That so much of standing and temporary orders be suspended as would prevent:

(1) Questions without notice being called on at 2.30 pm and presentation of papers, ministerial statements, by leave, and matters of public importance following in the normal routine of business;

(2) Notices Nos 3 and 4, private members' business, relating to motions of disallowance of motor traffic determinations being called on together at 5.00 pm and one question being put on both motions;

(3) If a vote is in progress at the time of interruption, that vote and a vote consequent upon that vote shall be completed and the result announced; and

(4) Debate shall be adjourned on any business interrupted and the resumption of the debate made an order of the day for a later hour this day.

MATTERS OF PUBLIC IMPORTANCE

Mr Berry: I would like to raise a point of order in relation to standing order 79 and the lodgment of matters of public importance. I would ask you, Mr Speaker, to take advice on this matter. Perhaps you might wish to report back later. When a matter of public importance is received by the Speaker and subsequently found to have a forged member's signature beneath the statement of the matter of public importance, is that lodgment considered to be invalid? Would the Speaker consider it a fundamental impropriety for a signature to be forged on such a lodgment?

I table, Mr Speaker, a request for the consideration of a matter of public importance, together with three earlier examples of Mr Collaery's signature, none of which match today's signature.

MR SPEAKER: I will make a statement based on my - - -

Mr Collaery: I take a point of order, Mr Speaker. I am not prepared to allow the word "forgery" on the record, even for the time that it takes for you to seek an opinion. I ask that you ask Mr Berry to withdraw that word and use the words "alleged forgery". It will be his allegation, Mr Speaker. That is the convention of the house. When our staff - - -

Mr Connolly: Did you sign it?

Mr Collaery: Mr Speaker, we will deal with this in due course. It is an irrelevancy. People in the house know full well the degree of irrelevancy, Mr Speaker. I ask that you rule that the word "forgery" be taken out of Mr Berry's statement, that he be asked to withdraw it, and that he put in the words "alleged forgery". That is the standard of debate in this house. Then we will debate that issue any time Mr Berry likes.

MR SPEAKER: Yes, I would uphold that objection.

Mr Berry: Mr Speaker, may I speak to the point of order? Mr Speaker, in the words that I used in bringing this matter to your attention, I made no reference to Mr Collaery in relation to the forged member's signature. What I did say, Mr Speaker, was that the three sample signatures that I put before the house and tabled today do not match the signature on the lodgment document.

Mr Collaery: So, you mentioned my name. They bear my name.

Mr Connolly: Obviously, you did not forge it because it is purportedly your signature.

Mr Collaery: Mr Speaker, may I address that point of order?

MR SPEAKER: Order! Mr Collaery, you do not have the call. Mr Berry is still on his feet.

Mr Berry: Mr Speaker, I am prepared to withdraw the word "forged" and replace that with the words "with a signature apparently not the member's signature".

Mr Collaery: Mr Speaker, Mr Berry just said that he did not allege that it was me, but he tabled three documents bearing my name; so, clearly, that was an attempt to mislead the house.

Mr Connolly: Oh, don't be silly!

Mr Collaery: It certainly was. Mr Speaker, if we are going to have this childish debate, of course you will rule whether the standing orders require members to sign MPIs, which of course they do not at the moment; and, if our staff sign an MPI on direction, so be it. Mr Speaker, if you rule that we should sign MPIs, of course we will accept your ruling; but our examination of the standing orders shows that they do not require it.

Mr Connolly: It says "A member", not "A member's staff".

MR SPEAKER: Order!

Mr Collaery: Mr Speaker, could I complete the statement, because I resent, as any honourable person would, that implication in Mr Berry's statement. Would it be necessary that all the writs and affidavits that are served and issued throughout this country bear the names of the long-dead proprietors of the legal firms and their signatures? The fact of the matter is, Mr Speaker, in common procedural forms - - -

Mr Berry: It is required to have the signature of the person it says it is.

Mr Collaery: Mr Speaker, the non-practising Attorney smiles. He would not know these things. Mr Speaker, I think we have just wasted a few minutes. I will sit down now. I think it is a trite and silly point that Mr Berry raises.

MR SPEAKER: I disagree with your observation. I would ask you to now withdraw the words you used, that Mr Berry attempted to mislead the house.

Mr Collaery: I withdraw the statement that Mr Berry attempted to mislead the house, but I put on the record - I am not qualifying it - that Mr Berry said - - -

MR SPEAKER: That is all I require, thank you, Mr Collaery. I would ask you to resume your seat.

Members will be aware that the standing orders require that a written notice of a matter of public importance proposed for discussion must be given to the Speaker not less than two hours before the time fixed for the meeting of the Assembly. If the Speaker determines that the matter is in order, it is then submitted to the Assembly. Though the standing orders do not state that a member must sign the written proposal, I believe that that is implied in the provisions of the standing order.

A matter was submitted this morning, purportedly signed by a member. In this case I was able later to determine that the matter had been submitted with the authority of the member. I do not believe that the practice of others

signing for members in these cases is a sound one, and in future I will not accept matters that have not been signed by the proposer.

MR COLLAERY: Mr Speaker, I wish to make a short personal explanation under standing order 46. I believe that I have been misrepresented.

MR SPEAKER: Please proceed.

MR COLLAERY: Mr Speaker, I attended at your suite of offices at precisely 8.30 this morning and I asked your staff whether the MPI had been lodged, because I was prepared to sign it. I had been delayed this morning and I had telephoned a staff member and asked her to sign it. Unfortunately, that staff member did not put "per" or "for", and some mischievous minds apparently have suggested that it is a forgery. I do not know who they are and Mr Berry has not revealed that. But I do not want to waste any more time.

If that is your ruling, Mr Speaker, of course we will abide by it; but there are difficulties in meeting the 8.30 am deadline, as you know. I wish it to be recorded that I was prepared at that hour to sign the MPI. The MPI was delivered by one of my staff to your staff, Mr Speaker, one of whom is a former staffer of mine and knew full well that it was not my signature on the document, I would suggest. So, I think it is much ado about nothing - a very petty, nasty comment, I believe, from the Labor opposition which typifies their approach.

LEGAL AFFAIRS - STANDING COMMITTEE
Report on Majority Verdicts by Juries in the ACT

MR STEFANIAK (10.38): Mr Speaker, I present the report of the Standing Committee on Legal Affairs on its inquiry into majority verdicts by juries in the Australian Capital Territory, together with extracts of the relevant minutes of proceedings. I move:

> That the report be noted.

Mr Speaker, firstly, in relation to this report, I would like to thank the committee staff, especially Bill Symington and Vicki Salkin, who were great during the course of the preparation of this report. I would also like to thank the previous committee members, Mr Connolly and Mrs Nolan, and my two colleagues, Mr Collaery and Mrs Grassby.

Whilst the majority verdict part of the report did not lead to any unanimous recommendations from the committee, I think, nevertheless, that this is a very useful report. If nothing else, it is an excellent document which goes through the current state of the Australian law. One particular area, which I will come back to and which I

would impress on this Government and any future government in the Territory, is chapter 10, which is headed "Other Aspects of Jury Trials". That is important. There are a number of recommendations there which will greatly simplify the law, especially the criminal law at its more serious level, that is, at the Supreme Court level, in terms of procedures in that court and procedures in relation to juries.

I will devote about half of my speech to that particular chapter because I think that is something on which the committee was basically unanimous. The legal profession is unanimous in terms of necessary alterations to the law to simplify the criminal justice system and the administration of that system.

Mr Speaker, majority verdicts have been in place in four Australian States and Territories for periods ranging from about 10 years or so, in the case of the Northern Territory, to over 60 years in South Australia. Western Australia, South Australia, Tasmania and the Northern Territory have very successfully had majority verdict systems for a number of years. In the Northern Territory it is in for every type of offence, including capital offences. In the other States you need a unanimous verdict for a capital offence such as murder. If the ACT is to go down the track of introducing a majority verdict situation, we felt, as a committee, that it should adopt the model of the other southern States and exclude capital offences, such as murder, where a unanimous verdict should remain.

I might say that Mr Collaery and Mrs Grassby did not see the need for majority verdicts, and no doubt they will make reference to that should they wish to speak to this particular report. I believe, on balance, Mr Speaker, that majority verdicts would be of benefit to the Territory. It would save a number of retrials.

I suppose that, in a way, I have a closer knowledge of jury trials than the other two members, certainly Mrs Grassby, and perhaps even Mr Collaery, in that I have been involved in a large number of jury trials as a prosecutor. They are certainly very interesting creatures and they are a very relevant part of the criminal law.

The benefit of a majority verdict system, Mr Speaker, if it is adopted - we did recommend this - is that it enables 10 out of the 12 jurors to agree, after a period during which they could not reach a unanimous decision, that the person was either guilty or not guilty. That often prevents the need for a retrial, which causes a lot of trauma to the defendant, to the victim if there is one, and to the other witnesses and other persons involved. Also, it is a fairly costly exercise.

Luckily, in recent years in the Territory the incidence of hung juries has been fairly minor, and that is good. I recall that in the early 1980s probably up to about 20 per cent of our trials would result in juries being unable to

reach a unanimous verdict. I am pleased to see that in the last 18 months or so there have been only some five hung juries, and that is certainly pleasing. Perhaps that influenced my colleague Mr Collaery to an extent in his feeling that majority verdicts were not essential.

Quite often, there is what is known as a perverse juror - one person who holds out, for an illogical reason, be it for an acquittal or be it for a conviction. Those things certainly do happen. It is all there in the report; I will not labour that any further. From my experience, you do get word back from court staff and others that one person was hanging out either way, to the exasperation of his or her colleagues. That causes a problem which is somewhat alleviated by the majority verdict system; hence my support for that system.

Mr Speaker, there are a number of other aspects in relation to this report which I think would be of benefit. I want to mention other aspects of jury trials. I think nothing cheeses off a jury more, after being empanelled and hearing a bit of evidence, than a legal point suddenly being taken by counsel. The jury goes out of the room and argument on that legal point might range from half an hour to five or six days. I have known of trials in the ACT where a jury has been empanelled, has heard evidence for about three hours, and then, for about five or six days, has been just sitting in the jury room with very little to do while counsel argued some legal point.

Not only the Director of Public Prosecutions but also the Legal Aid Office and its representatives and the ACT Bar Association indicated that they would like to see a pre-trial procedure where, ideally, the trial judge decides all the technical legal points prior to the jury being empanelled. Quite often, those points revolve around what evidence will be admitted, including, quite often, a record of interview, confessional evidence, and other types of evidence.

If those points are resolved prior to the jury being empanelled, the jury can then be empanelled, the whole trial can proceed, the relevant points again can be made in the presence of the jury and they can decide, on the merits, whether they accept them or not. There is far less likelihood of the jury being sent out for inordinate periods. The trial procedure would be a lot smoother and the administration of the criminal justice system would be a lot better.

I was pleased to see that all practitioners who appeared before the committee recommended that that pre-trial procedure be introduced; that the law be changed, where necessary, to ensure that that can happen. I think that is very important indeed. Probably this Government will not have time, but if the next government moves in that direction of law reform it will do the Territory and the administration of justice a great service. I commend that to the current Attorney-General and his successor in 1992.

There are a couple of other issues which I would also like to stress, Mr Speaker. There have been a number of instances in the ACT over the years - I personally was involved in one of them some time ago - of a Supreme Court judge taking away a trial from the jury. That rarely happens in other States. There was a very controversial case recently involving Judge Higgins, which has been appealed by the Director of Public Prosecutions; accordingly, I will make no further comment, save to say that it certainly was controversial.

But he is not Robinson Crusoe in that regard. His colleagues beforehand, on occasions, have taken trials away from juries, have basically decided the point themselves and have dismissed cases. That is fine to an extent. There always should be some provision for a Supreme Court or a superior court judge to do that. However, Supreme Court judges, just like the rest of us, are human, and no-one should ever lose sight of that fact either. There is nothing mystical or magical about being a magistrate or a judge. They are there to do a job, just like the rest of us are here to do a job.

The jury system goes back hundreds of years. I certainly believe - I think my two colleagues would agree with me - that the jury should be the paramount body judging a trial. I would accordingly recommend, and I did, as an afterthought, that when the Assembly takes over the Supreme Court it change the Act to give the Crown the right of appeal against a trial judge who takes a case away from a jury.

If that appeal is successful, there then must be a provision for a fresh trial. At present the Crown can appeal on a point of law, but there is no fresh trial. If the trial judge is deemed by his superior court to be wrong, there should be provision for a fresh trial, because the jury verdict should be paramount. The jury is the sole judge of fact. If a judge errs in taking a trial away from a jury, he should be subject to review by a higher court. In the ACT that would be the Federal Court. If that appeal is successful, there should be a fresh trial. I think that is very important.

I would recommend that that be done after we take over our Supreme Court. If the Federal Government was so minded, it could do so beforehand. Indeed, it could also take some steps to adopt some of the law reform measures we propose in this report, were it is so minded, prior to 1 July when we take over our Supreme Court.

I suppose, when one talks of jury trials and of the Supreme Court, just as an aside, it is probably important for this Assembly or the next Assembly to look quite carefully at the terms and conditions of the appointment of judges. At present they are very much there for good. There are huge problems in terms of removing them. I think you need a

joint sitting of both houses of parliament, and that certainly is a somewhat onerous burden on any community. As I say, they are there to do a job. That is perhaps another point that needs to be looked at by this Government and the succeeding government.

Basically, Mr Speaker, whilst the jury system works fairly well in the Australian Capital Territory, as a result of this inquiry we found a number of areas where we unanimously agreed that there can be improvements. I am pleased to see that they are the unanimous views of the profession. I personally think that majority verdicts would be very sensible. Indeed, in a written submission, the Bar Association agreed. The Bar Association met and the majority of barristers agreed that such a system should be introduced and suggested a 10-2 majority. However, there are some dissenting views and alternative views within the legal profession on that particular question.

Whilst the main thrust of this particular report is the majority verdict question, perhaps it became a little bit of a sideshow to the additional points we found out about jury trials, and the further recommendations and discussion in chapter 10 especially are very important. I would hope to see those recommendations implemented as soon as possible, in the interests of the efficient administration and the fair administration of the criminal justice system in the ACT.

MR COLLAERY (10.51): Mr Speaker, I cannot agree with the proposition that we should do away with the "good twelve"; nor does the interstate and New Zealand experience support an assumption that retrials caused by jury disagreements will be less frequent with 10 jurors. Although I think this reference to the committee was mistimed, it has been productive and the committee's report represents an excellent compilation of the literature and the competing viewpoints.

I joined the Legal Affairs Committee after this reference was moved by Mr Stefaniak MLA (Lib). Had I then been a member of the committee, I would have moved to expand the reference, because the question of reviewing jury verdicts is but part of a much needed jury overhaul. In my questioning of witnesses I sought to elucidate support for my view that reforms in other areas are inextricably connected.

The committee's report alludes to the need for wider reform before a decision is taken to build a safety valve into the jury room. When reforms are implemented, I would be prepared to reconsider the question whether the single "nutter" in a jury room could be neutralised by an 11-1 verdict, in such circumstances only.

Jurists are properly alarmed when righteous-minded elements in our community seek to pursue the verdict they want into the jury room. Recent comments by the Queensland Premier, Mr Wayne Goss, and the Queensland Attorney-General, Mr Dean Wells, suggesting that there needed to be an inquiry into the activities of the jury and/or a juror in the Bjelke-Petersen perjury trial are a matter of deep concern. Public confidence in the jury has been seriously eroded as a result of speculation, given credence by a Premier and an Attorney-General. Although the jury has so far survived the vicissitudes of Australian politics, a growing conservatism of outlook in Australia, coinciding with unprecedented public disquiet over inadequacies in the delivery of justice, threatens this ancient institution.

In simple terms, the value of a jury is the sum total of the value of the jurors' minds. The more jurors, the more chance of better knowledge, broader minds, better skills. An obvious example is the fact that, in commercial matters, the wider the jury spectrum, the more chance of finding commercially related skills within the jury. Fundamental to the jury system is the method of selection. The scale of exemptions given, particularly to professionals and community service people who are often technically and socially aware, is of concern. On a smaller stage, we need to be careful in this Territory not to mimic unthought impulses. Practising lawyers know that most ACT juries are sensitive and aware. Whilst the chances of getting this with 10 in an ordered society are good, they are better with 12, and this is the essential issue.

As originally conceived, the jury was designed to stay the hand of those who would punish arbitrarily and/or capriciously. The jury gave the people a chance to judge themselves and to provide a community sanction for miscreant activity. I am troubled by how far we have gone from the original notion. In recent days in the ACT, a Supreme Court judge has again denied a jury the chance not only to positively contribute to a decision on a case in point but to provide a community-based rather than a judicial view of a matter very much in the public interest, namely, the use of police tactical response groups. In that case the judge did not even address the jury and direct it to acquit the defendant. With great respect to the learned judge, this event brings to a head concerns I hold about the almost powerless role of the modern jury compared with its medieval precursors.

I imagine that a jury sometime after the barons were tamed might have revolted at the prospect of being usurped. A courageous jury in those days may well have challenged a judge's authority to direct them, but not so in Australia - a temporised society which, from Timor to the Tasmanian south-west, is content to hand the community conscience over to politicians, judges and bureaucrats.

Rampant individualism now dominates that great lever for reform, the free press. Those who would advocate law reforms are increasingly bought off with appointments as they slip away from the quivering blancmange of Australian editorialism, our trades halls and universities. Reform now lies outside the political duopoly; it will come from the community and, in that context, the jury itself.

The court system should cease patronising jurors. The whole process of keeping the jury in the dark must cease. The jury should be supplied with a transcript of the evidence. Expert witnesses should be allowed to present their written briefs. Their evidence should not be selected for them by a lay person. And the jury should be encouraged to peruse case summaries which are commonly handed up to the trial judge prior to the hearing. I do not, however, favour victim impact statements going to the jury.

One of the justifiable bases for keeping a jury in the dark is the rule that similar fact evidence, that is, evidence which tends to show a disposition on the part of the accused to commit an offence similar to that with which he or she is charged, is generally inadmissible on the ground that it may prejudice the trial. For this reason, persons charged with the same offence involving different victims are sometimes tried sequentially and the jury is kept in the dark.

Careful thought should be given to revising this rule. In village times all would probably be known. Canberra is not far different from the village era and few jurors in this Territory would remain ignorant of serial charges; so careful thought needs to be given to the usefulness and economy of the rule.

Indeed, the rule contrasts with the usual admission of good character to a jury which tends to displace the reality that there can be, in many lives, an uncharacteristic fall from grace. In other words, from a serial victim's viewpoint, good character evidence may equally be said to prejudice the trial. Fictional judicial directions to ignore or to make limited use of target and so-called character evidence should cease. The legal profession must develop a code of conduct to prevent blatant manipulation of jurors through the improper use of target and character evidence.

The right to idiosyncratic peremptory challenges in the selection of a jury should be abolished and, failing that, reasons should be given, to exclude the chance that the challenge is based on race or other discriminatory prejudice, such as being an ex-service man or woman, having a beard, being a woman, being grey haired or blue rinsed, being young and trendy. The original idea of a jury was

that it would be representative of the community, not of the defendant's social class. Whilst the right of challenge for good cause should remain, purposeful discrimination by counsel, such as eliminating all persons of non-English speaking background, should attract the sanctions of the Discrimination Act 1991 of the ACT.

The system of exemption from jury service should be reviewed. Ironically, the Juries Ordinance 1967 is still the responsibility of the Commonwealth because the Australian Capital Territory (Self-Government) Act 1988 ensured that it will not become an ACT law until the ACT Supreme Court becomes a territorial responsibility on or before 1 July 1992. Delaying the court transfer has delayed reform, and the chances of a proper financial settlement for the court from the Commonwealth have evaporated. As former Attorney, I supported a jury review, including assessing the current exemptions from jury service pursuant to section 11 of the ordinance and the Jury Exemption Regulations of the Commonwealth which apply to the ACT. No doubt it is now on the Labor backburner.

Current exemptions from jury service include ministers of religion; employees of the government of an overseas country or of an international organisation; practising barristers and solicitors and their employees; practising medical practitioners, pharmacists, dentists and veterinary surgeons; professors, lecturers and schoolteachers engaged in full-time teaching at universities, colleges and schools; editors of newspapers; members of the Australian Federal Police; firemen; and persons over the age of 60 years. In consequence, the peer jury has been heavily eroded by these exemptions.

For example, should medical practitioners sit on juries? Are they not better minded to take in the scientific evidence and to assess issues such as grievous bodily harm? Should the ACT's 7,500 teachers participate, on the Socratic notion that they are wise and can leave the jury room and spread the word, or simply because they probably represent 5 per cent of the otherwise eligible jury population? Why should those over 60 years not stand in judgment? Is this not blatant age discrimination? Should not all newspaper editors - I repeat, all newspaper editors - spend a salutary period in jury lock-up, especially the lawyer dominated *Canberra Times* editorial desk? These issues are not being faced, and they should be. They exemplify the desultory criminal law reform process in this Territory.

How does the juror take an oath to faithfully try a defendant and give a true verdict when the jury is faced with opposing expert scientific evidence? Why is the jury the butt end of our failure to create an independent

forensic service which would ensure that expert forensic witnesses are paid by the court, perhaps with cost recovery on the event? I brought tentative moves in that direction to the attention of the committee.

However, the need to ensure that the injustices of the Lindy Chamberlain trial, the Tim Anderson matter and the Birmingham Six case are not repeated, and my unease with the recent Kerry-Anne Browning trial in the ACT, surely call for urgent uniform reform in this country. How many juries, for instance, are even aware of the use by forensic scientists of the inference chart? It has been described as a jargon-free guide to assist the jury to weigh scientific signals and patterns. This can provide a way out of the bamboozling maze I have seen juries presented with. In appropriate cases the jury needs to be acquainted with the basics of scientific inference.

Claims of miscarriage of justice often stem from forensic evidence which has allegedly tended towards being in the prosecution stable. Whilst it has not been established that stable experts may subconsciously lean towards the party employing them, of greater concern is the fact that forensic experts themselves rarely get the chance to speak to the evidence. Their evidence is selected by counsel conducting the examination, and cross-examination is usually conducted by a non-expert who is often no competitor. The resolution of this issue may prevent the confusing battle between experts which has lengthened trials, produces jury fatigue, and has resulted in demonstrable miscarriages of justice in the United Kingdom and Australia.

I want to speak now about the jury as an instrument of reform. The traditional restriction of expert evidence to that given by scientists belongs to the late nineteenth century, when science was seen as an unquestionable arbiter of issues like biological determinism. Recently, expert evidence supporting the notion that battered women may have behavioural changes such as to affect their cognitive conduct was denied to a jury by a judge at first instance.

A reformist South Australian Court of Criminal Appeal has recently put an Australian stamp of approval on the admissibility of expert evidence on what is known as the battered wife syndrome by overturning the judge's direction. The patronising manner in which juries are artificially constrained on judicial direction from absorbing good theory to match their own good sense was well illustrated in this case. Similarly, the conservative and misogynous reluctance to plead the premenstrual syndrome where apparent and dominant in conduct. Unlike developments in North America and Europe, Australian courts rarely entertain arguments about the correlation between serious PMS problems and uncharacteristic conduct.

If properly instructed on their role, juries would be more inclined to provide a lead on these issues. Juries must be encouraged to become assertive and proactive. The role of an ethical media is vital in this context. Defamation law reform will unleash this force. Mr Stefaniak's search for an answer in having two fewer voices, and two fewer minds, is misplaced. We need wider reforms. If we re-democratise, re-empower and unshackle the jury, it might forge the reforms for which much of the judiciary, and the profession underpinning it, has lost its zest.

May I add, Mr Deputy Speaker, that there appears to be a misunderstanding at paragraph 5.8 on page 14 of the committee's report. I believe that the words "The committee recommends" should read "Mr Stefaniak recommends". I believe that there has been a misunderstanding there. Since, due to a misunderstanding, my comments were not included as additional comments, I seek leave of the Assembly to table my comments, and to have them incorporated in *Hansard.*

MR DEPUTY SPEAKER: Mr Collaery, I think you should look at the word "should" on page 14.

MR COLLAERY: Yes, "should". Well, I will accept that.

MR DEPUTY SPEAKER: Is leave granted for Mr Collaery's additional comments to be tabled?

Leave granted.

MR DEPUTY SPEAKER: Is leave granted to incorporate them in *Hansard?*

Mr Connolly: We do not usually incorporate committee reports in *Hansard.*

MR COLLAERY: The problem, Mr Deputy Speaker, was that the secretary was not aware that I had additional comments and the report was printed.

Mr Connolly: There is a deadline.

MR DEPUTY SPEAKER: Yes, all right. Anyway, they have been tabled, so they are there.

MR COLLAERY: The reason I want them tabled, Mr Deputy Speaker, is that I have done some research and the footnotes there may assist researchers; but I leave it to the house.

Leave granted.

Document incorporated at Appendix 1.

MRS GRASSBY (11.05): The Labor Party's policy is a social policy. Our policy is that it is more acceptable that a guilty man go free than that we lock up an innocent man. I believe firmly in this policy because, over the years - Mr Collaery has mentioned many of those cases - innocent people have been sent to gaol for something they did not do. When you have a majority jury, this can easily happen. A man or a woman who has not committed the offence can, because of certain evidence and trial by the media, which we all know very well, be locked up for a year or 10 or 20 years. Mr Collaery commented on this. We all know that this happened to the Birmingham Six. Half their life was destroyed. This happened on evidence found out later not to be true.

A case comes to my mind. When I was a child my father told the story of a man who had been charged with committing a murder in New South Wales. It was the time when we hanged people; we had capital punishment, which is quite frightening. At the time of the murder in Sydney the man was in a town called Narrandera. On the day of the murder he had been buying meat in a particular butcher shop in Narrandera that belonged to my father's best friend.

The point is that two people on the jury found him not guilty, and eight people found him guilty. Luckily for this man, it was a hung jury. My father's friend, who one day was wrapping up some meat - in those days meat was wrapped in white paper and then wrapped in newspaper - noticed this report of this particular trial in a very old newspaper. He remembered the man by his photograph and remembered that on that particular day he was in his shop buying meat. If the man had been found guilty, he would have been hanged. You cannot give a person back their life. The fact that the man went free is very important.

With a majority jury, goodness knows what could happen. We do not have capital punishment in this country, thank goodness. I hope that I never live to see the day that capital punishment comes in. If it does and if we have majority juries, many people may go to the gallows, or the gas chamber, or whatever way they chose, for something they did not do. Therefore I, with Mr Collaery, could not support the chairman on majority juries.

In respect of paragraph 5.8(b) on page 14, there has been a misunderstanding. Both Mr Collaery and I voted very strongly against this. Mr Stefaniak believed in it and he was the chairman of the committee. We said that he could agree with what he liked, but that we would vote firmly against this. I believe that we did the right thing. I do not want to take up a lot of the time of the house. In social justice, we could not believe in majority juries, and if a vote were taken on it in this house I think others would agree.

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

LAND (PLANNING AND ENVIRONMENT) BILL 1991
Detail Stage

Consideration resumed from 21 November 1991.

Clause 16

MR JENSEN (11.10): Mr Deputy Speaker, I seek leave to move together amendments Nos 11 and 12 that have been circulated in my name.

Leave granted.

MR JENSEN: I move:

Page 9, line 3, omit "recommendation submitted", substitute "submission made".
Page 9, line 5, omit "recommendation", substitute "submission".

Mr Deputy Speaker, these amendments relate to proposals that, hopefully, will eventually be agreed to in relation to clause 10 when we go back to it later on. As I understand it, the Government accepts these two amendments. They are to ensure that a full report, with reasons and justification, is made available to the Executive and eventually, if things go to plan of course, the Assembly committee and the Assembly. A bare statement is not necessarily sufficient in these cases. The example that I continue to give relates to such things as traffic management. All we have been getting in relation to variations in the past has been comments that the assessment has been done and there are no traffic problems, or the Conservator of Wildlife has no problems or concerns.

I think it is important for a brief statement to be included in the draft variation documents saying why decisions have been made. That will assist the process and may save the community a lot of time and concern - and probably even the committee and the Assembly when they come to consider these issues. If sufficient information is provided early enough, there will be no problems and the process will flow quite smoothly. I am pleased that the Government supports these amendments.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (11.12): Mr Deputy Speaker, the Government agrees with these amendments.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 17 agreed to.

Clause 18

MR JENSEN (11.12): As I understand it, the Government has also agreed to my amendment No. 13. I move:

> Page 10, lines 10 and 11, omit paragraphs 18(1)(a) and (b), substitute the following paragraphs:

"(a) any relevant environmental report;

(b) the report of any relevant inquiry; and

(c) any relevant report prepared pursuant to the Plan".

I do not think I need to make any further comment.

MR KAINE (Leader of the Opposition) (11.13): Mr Deputy Speaker, I do not support this amendment. Most of the amendments that Mr Jensen is putting forward are sensible and necessary amendments. There are some that are hardly necessary and that add nothing to the Bill, and I think this is one of them. Paragraph (b) of subclause (1) says:

> the report of any relevant Inquiry.

I cannot imagine any report that would be available that was not the result of a relevant inquiry under the Act. So, what would the proposed additional paragraph add to those reports that would be submitted?

The amendment seems to me to propose an unnecessary addition that would not increase the information that would be made available. I do not really see why we are cluttering up the Bill. It is a complex and comprehensive Bill now, and I just do not see how the amendment would add anything meaningful to it. In fact, it would probably complicate the Bill. A lot of people would be running around saying, "One of these relevant reports prepared pursuant to the plan". In fact, in my view, reports are already covered under existing paragraph (b).

MR JENSEN (11.14): May I just explain for the benefit of the members. Paragraph (b) refers to Inquiry with a capital "I". An Inquiry with a capital "I", in fact, is defined in the legislation as an inquiry conducted under Division 4 of the legislation. The report referred to in my proposed paragraph (c) is the report of an internal inquiry or assessment conducted within the department. That is the difference between the two and that is why I proposed that paragraph (c) be added to the list.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (11.15): I note Mr Kaine's remarks. I would explain this as a further refinement of the wording, which is acceptable to the Government. I will propose a further amendment - an amendment to the amendment - which I understand is agreed, to delete certain words from paragraph (c) so that it will read:

> any relevant report required to be prepared by the Plan.

I move:

> Paragraph (c), omit "prepared pursuant to", substitute "required to be prepared by".

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

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

Clause, as amended, agreed to.

Clause 19

MR JENSEN (11.22), by leave: I move:

(a) Page 10, line 22, paragraph 19(1)(a), omit "and purchase".
(b) Page 10, line 32, subclause 19(2), omit "and purchase".
(c) Page 11, line 1, subclause 19(3), omit "or purchase".
(d) Page 11, line 10, subclause 19(4), omit "or purchase"; and
(e) Page 11, line 13, subclause 19(5), omit "or purchase".

These amendments relate specifically to the requirement to make available to members of the public, for public inspection and purchase, documentation in relation to environmental reports and inquiries, as part of the public consultation process. The Rally has always maintained, and will continue to maintain, that these sorts of documents are a very important part of the process of community consultation. In fact, we believe that it should be written into the process as such and budgeted for by the Government.

That may mean using some of the funds that in the past may have been taken from the Community Development Fund, for example, because we see this as part of the community process, if you like. It is not inappropriate for this sort of information to be made available to the community to enable it to carry out its work. It is on that basis that the Rally has always supported this process.

We accept the fact that governments may wish to seek to recover costs; but let us consider, for example, the recent West Belconnen proposals. People are being asked to pay $20 for copies of the two documents related to the second stage of that proposal. Quite frankly, we do not believe that that is acceptable. Neither do we believe that it is acceptable for copies just to be available in the library. The copies that go to the library are available there for reference. They are generally not available for people to take out. We are talking about detailed documents that require some study.

Let us face it, community groups and organisations have put in incredible amounts of their own time, unpaid, to assist in the process of community consultation. They do not do it for salary; they do it for nothing. They do it because they have a commitment to the needs and the requirements of the community. It is important to recognise that.

Community groups and organisations that are involved in this process - and individuals, for that matter - give a considerable amount of time and effort. I think it is important that this be recognised. One way not to recognise it is to require them to pay for those documents. I have spoken to people who have indicated an interest in participating in the process but have been put off by the costs. Some of them are not prepared to put in that sort of money, because $20, as it is in this case, can be a quite substantial factor in a tight budget, particularly for those people who are not as well off as others.

In the interests of social justice and enabling people to participate properly and fully in the process of government - particularly the planning process that we have in the ACT which has been built up over a number of years - it is very important for this information to be made available to the community at no cost. It should be seen as part of the consultation process and paid for out of the budget, as appropriate.

MR MOORE (11.26): The most important thing to understand about these amendments moved by Mr Jensen is that they would not preclude the Government from charging. What they would do is change the tone by saying that, by and large, where possible, we ought not to charge community groups for public consultation. That is how I see the effect of Mr Jensen's amendments. Removing the words "and purchase" does not mean that, administratively, a charge could not be made for those things.

However, the tone and the approach would change entirely, because having "and purchase" in the legislation almost implies that on each occasion there should be a charge for these documents. Deleting those words would still allow the Government to charge, but it changes the whole emphasis and the whole tone of that. That is certainly my understanding of the amendments.

If the amendments were to preclude the Government from charging, I would probably support that anyway. But it is important to understand that, as I understand it, Mr Jensen's amendments would not do that. In fact, this is a very sensible method that recognises the cost in terms of community time and balances that against the cost of papers, because the valid point that Mr Jensen made was that often we do not take into account the tremendous amount of time that the community puts into these matters. If we were to put a dollar value on that time, we would realise just how fortunate we are in the community contribution to such things as planning in the ACT.

MR KAINE (Leader of the Opposition) (11.28): There is always an emotional element in the debate on some of these things, and I think that what we have just heard from two speakers is an appeal to emotion rather than to commonsense. The fact is that it has long been recognised that the implementation of this new Bill will cost a great deal from the public purse.

I see nothing wrong, in principle, with the proposition that someone who wants to take a document away, scrawl all over it, change it and revise it should be asked to pay for it. If you do not want to do that, you can go and sit in a library and read it. Nobody is asking you to pay for that. I just do not accept the proposition that everything that one is entitled to do under the law ought to come free. If we adopted that principle across the whole range of government activities we would never collect any revenue at all - "It does not matter what product we make available, under what conditions it is made available or how costly it is; we just give it away".

I do not see that the charge is at all unreasonable - $20. I imagine that it is a fairly complex document. Most of the documents that we are talking about are probably only a few pages and might be worth 50c or $2. One particular case was mentioned where the charge was going to be $20. That is because it is a very large project and very complex documentation. People might have to pay $20 under those circumstances.

I, as a potential Treasurer next year, well understand how much it is going to cost government to implement this Bill when it becomes law, and I do not believe that, in principle, there is anything wrong with asking people to make a very small, in my view, contribution when they want to participate in the processes that are provided for and prescribed under this Bill. So, I am afraid I cannot agree with Mr Jensen and Mr Moore on this issue.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (11.30): Mr Kaine is right. In principle, it would be nice to do this. We run tight budgets in this Territory these days. Some of these documents are very substantial in size and quite expensive. I would think that some that have been sold recently are subsidised in any case. Let me say that, if we agreed to this, we would have an open cheque here, because the amount that we would have to underwrite for it is truly very substantial. If we take "and purchase" out of that paragraph, what we are left with is something that says that papers are available for inspection. There is no requirement at all in any case that they be made available to be taken away.

Another point is that we have made documents available free of charge to a quite large number of bodies and groups. We did so recently with the draft Territory Plan. Significant bodies have these documents. So, I think that the intention is there to assist groups as far as possible, but some ability to charge must be there.

MR JENSEN (11.32): We are really talking about draft plan variations as well in this particular case. We are talking about the green papers that we have seen in the past, because that is what it is about - the draft variations. We have already seen the situation, in relation to the draft Territory Plan that has been put out, of the Government not being prepared even to advise those people directly affected by changes to policy in the area. The Government was not even prepared to provide that information.

That is why we have undertaken the exercise of providing that sort of information to the public, not only in the public libraries but also directly out in the suburbs. It is unfortunate that we are seeing this attitude from both the Liberal and Labor parties. The Labor Party - the Government - is a party committed to consultation. I am afraid I am very disappointed in the attitude of both parties, because it seems to me that they have lost touch, or lost some awareness of the focus of community consultation and what it is all about.

It seems to me that what we are talking about here is a possible attempt to reduce the number of people who are actually made aware of information that is provided and available. I think a prime example of that was the need for the Residents Rally to provide this document to the libraries. It was quite clear that some of the changes in the draft Territory Plan are quite substantial, as I have already indicated. I think that it is most unfortunate that both the Government and the Liberal Party in this place have taken this view on the provision of information to the public. I would suggest to them that, in most cases, providing sufficient information and detail to the public will make people aware of what is going on, encourage debate and get the issue over and done with.

There is nothing worse than people finding out after the event - as will be the case, I would suggest, with a lot of the areas dealt with in the draft Territory Plan - and being told, "Sorry; it is too late. You have already had your opportunity". The fact that people will not know about these things or will have to pay for the documents themselves is, I would suggest, most unfortunate. When the Rally takes some control of this area after the next election, we would seek to redress this issue and make sure that the information is available to the public. I believe - and I argued for it when I was in government - that these items should be freely available to the public and that there should be no charge for them.

MR KAINE (Leader of the Opposition) (11.35): Mr Jensen has just demonstrated his incredible ability to see only the black, none of the white and none of the grey. Of course, he cannot resist the temptation to have a kick and a punch at the Liberal and Labor parties on the way and point out that the Rally rides along on its white horse defending everybody's interests. Well, it does not. The fact is that Mr Jensen has seen only the black here.

There is no suggestion in this wording that copies of these documents will not be made available by the Government free. The way I read this clause was that there would be a community consultation process; interested people would be sent copies of these documents, just as they are now; but, if one chose, one could go along to these places and buy another copy, or somebody who did not get one, if that person so chose, could go along and buy one.

There is nothing in here that says that the normal consultation process will not be put into effect. So, Mr Jensen, I think, is reading into this something that is not there. He is seeing phantoms behind every bush. He might like to reread the clauses and see what they actually say before trying to remove the right of any citizens to go to one of these places and buy a set of these documents if they so choose, whether to supplement the ones that they have got for free, because they want to take to them with the scissors and paste or for some other reason - or even because there might be some people out there who have no objection, if they did not get a freebie, to going along and paying their $2 to get a copy.

By taking out of this clause the words that would allow people to go and buy one if they want to, I think Mr Jensen would be closing off some options, and, in my view, to no effect.

Question put:
That the amendments (**Mr Jensen's**) be agreed to.

The Assembly voted -

AYES, 4	*NOES, 12*
Mr Collaery	Mr Berry
Mr Jensen	Mr Connolly
Dr Kinloch	Mr Duby
Mr Moore	Ms Follett
	Mrs Grassby
	Mr Humphries
	Mr Kaine
	Ms Maher
	Mrs Nolan
	Mr Prowse
	Mr Stefaniak
	Mr Wood

Question so resolved in the negative.

Clause agreed to.
Clauses 20 and 21, by leave, taken together, and agreed to.
Clause 22

MR JENSEN (11.42): I move:

Page 12, line 34, add the following subclauses:

"(6) Where a draft Plan variation is revised pursuant to subsection (1), the Authority shall cause to be published in the *Gazette* and on a Saturday in a daily newspaper a notice stating -

(a) that the draft Plan variation has been revised pursuant to that subsection;

(b) that copies of the draft Plan variation as so revised are available for public inspection during a specified period of not less than 21 days at specified places.

(7) The Authority shall make copies of the revised draft Plan variation available for public inspection during office hours during the period, and at the places, specified in the notice under subsection (6).".

I indicate that I also wish to add a new subclause (8) to this. I will move that separately. If it is appropriate, Madam Temporary Deputy Speaker, I would like to speak to that at the same time, rather than take up the time of the Assembly.

Leave granted.

MR JENSEN: I thank members. This clause relates to the deferral or withdrawal of a draft plan variation. The authority makes a decision because of the consultation or because of some concerns or problems that it has found after putting out the draft variation. It then brings it back onto the drawing board. All that it is required to do under this clause, as I read it anyway, is to issue a notice in the *Gazette* to say that this proposal is brought back on again. It is not even required under this clause to put a notice in the newspaper.

Some of the changes involved might be quite substantial. They may be major changes, required as a result of something that was picked up after the draft variation was actually prepared and circulated. What we are suggesting is that in these cases the authority should be required to publish a notice not only in the *Gazette* but also in a daily newspaper on a Saturday. I think we all accept the fact that that means the Saturday *Canberra Times*, where most of the draft variations are published these days; we all know that that is where it usually happens. The notice should indicate that the draft plan variation has been revised pursuant to the legislation and that copies of the plan variation as so revised are available for public inspection during a specified period of not less than 21 days at a specified place.

In other words, what we are saying is that the process commences again. The authority should then make a revised draft plan variation available for public inspection. Members will note that, once again, I have left out the word "purchase", because we are talking about draft plan variations and I would hope that the Government will not expect people to pay for draft variations, particularly in view of their size. We are talking about only a few pages in most cases, even with some of the added information that, hopefully, will eventually be put into this documentation. That is something that the Government should look at.

Because there has been a process whereby the draft variation has been withdrawn and put back on the table again, the amendment that I propose to move later would provide for those communities that were involved in the previous process to actually be advised that the process has restarted. We believe that that is appropriate. In fact, members will note that that amendment, which I have circulated, says:

> ... being a notice served within 7 days after the decision to review the draft Plan variation is made by the Authority -

which gives the authority a bit of flexibility in that area -

> advise the person that documents referred to ... are available for public inspection.

This would draw the matter to the attention of those people who have been involved and have possibly put some considerable time and effort into the process. People may, for whatever reason, not be in town on the Saturday, and most people, of course, do not get the *Gazette*. As we know, it is a very specialised thing, with a very specialised readership. So, the only other opportunity that people would have to know about it would be to see this notice in the newspaper. It is quite possible that they will not see it, and they may wish to comment on it. So, all we are asking is that in such cases the authority be required to notify, by letter, that the process is back on track again.

I do not believe that that is a major impost. With the majority of variations that I have seen around the ACT, the number of comments received has been quite small. I think in most cases it ranges between eight and 15. On the odd occasion we have a draft variation where it is in excess of 100. I think we have seen that only twice. One was the Forrest bowling club proposal and the other, of course, was the school proposals.

So, what I am suggesting would not be a burden. We are not seeking to add any major costs to the process. We believe that it is quite appropriate for people to be advised. They then take the action that is necessary. In most cases, people will say, "Thank you very much for advising us. We are quite happy with the change. We do not wish to go any further. No further action is required". On that basis, the Planning Authority would probably be quite happy to proceed, because it would have re-established the process and people would have been advised.

But failure to do that, I would suggest, could mean that people with a major interest in the proposal may not be made aware of these very important changes. I think it is appropriate that we pass both of my amendments to clause 22. I understand that the Government will accept my new subclauses (6) and (7). I believe that it will not accept new subclause (8). On that basis, I will allow others to make their comments on this important issue.

MR KAINE (Leader of the Opposition) (11.49): Mr Speaker, this is a classic case of the Residents Rally not knowing when to stop. I am convinced, looking at the sequence of events on this clause alone, that Mr Jensen has a bunch of little gnomes - and I think I could put some names to them - sitting in a back room somewhere and churning out

stuff on proposed amendments to this Bill to make its operation more and more restrictive, more and more complex, more and more difficult in terms of the Government and everybody else getting on with their business. I would have agreed to the original proposition that Mr Jensen put forward. It was a simple, one-paragraph statement which said, in essence, that the authority, having revised a draft plan variation, should tell everybody, through the *Gazette* and the newspaper, that it had done it.

I had no difficulty with that - none whatsoever. Then, yesterday, I got epistle No. 2. That expanded that simple statement so that it comprised subclause (6), paragraphs (a) and (b), and also subclause (7). Today we get dropped on us a comprehensive proposed subclause (8) that would require the authority not only to place a notification in the *Gazette* and the newspaper but also to write letters to everybody.

Mr Connolly: Knock on everyone's door.

MR KAINE: Yes. I am a bit surprised that they did not say "to be served by hand". That would have made sure that everybody knew - and then maybe they should have prescribed that when they knocked on the door they needed an identification card from the person who answered the door so that we knew that the person getting the notice was, in fact, the person who had put in the submission in the first place.

I think it goes right over the top. I think it is a classic example of people trying to write into the law such prescriptive material that it really makes the law inoperative and impractical in the long run. The legislation becomes so full of this kind of prescriptive material that it binds public servants to all of this administrative trivia which, in fact, is quite unnecessary.

I am quite certain that people who had enough interest in a matter in the first place to put in a submission to the Planning Authority will be keeping watch on what happens. They will know what happens. Certainly, a notice in the *Gazette* and in a daily newspaper ought to be sufficient to inform them. So, I am afraid that Mr Jensen lost me. I would have accepted his first proposition. But he has now expanded it to such a degree that, quite frankly, it has become unacceptable to me. Unless he can convince me that I should buy all this stuff, I am afraid that I will have to reject it. On the other hand, if he is prepared to go back and move his original amendment, then he will get my support.

Mr Jensen: Mr Speaker, on a point of clarification: There are actually two amendments. I said at the time that the proposal was that we would deal with my amendment No. 19 as printed and that I would then, in fact, move a separate

amendment, and that is why I circulated a separate amendment. So, in fact, I am quite happy to see them voted on separately. But I was seeking to save the time of the house by speaking to the two changes together.

Mr Wood: You can move the second one later.

Mr Kaine: If he goes back to his original amendment No. 14, I am prepared to buy it, but not this one.

MR SPEAKER: We can vote on each of them.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (11.52): Mr Speaker, the difficulty that we have run into here reflects the difficulty we have had for some time. In earlier discussions with Mr Jensen I had agreed to a different subclause. It was one that Mr Kaine had also - and I had not debated this new one with Mr Kaine - found acceptable. But then, in the rush of time, Mr Jensen has come up with a further subclause, and we cannot accept that. Then there was another subclause further down the track. So, we simply cannot accept that.

It is probably appropriate at this stage to say that I have worked as hard as I can on this matter, and I thank Mr Jensen, Mr Kaine and other members of the Assembly for their cooperation in dealing with this matter. We have been absolutely overwhelmed by the volume of amendments coming late. We contacted members very early in the piece and asked for their proposed amendments. Mr Jensen's knowledge of the Bill, might I say, is thorough and detailed. He has been actively involved with it over a long period.

Ideally, he should have had all these amendments to me two months ago - or a month ago at the latest. They should not have been coming in just the last week. Indeed, if we had not had an extended debate on the human rights Bill - and I hope that we do not have another one on this Bill - the detailed consideration of this Bill would have been before the Assembly last week. We have been presented with an almost impossible task of trying to cope with these amendments. We want to be as cooperative as possible; but there are absolute limits, and the system has broken down because of late, late, late amendments.

Mr Jensen, I would willingly have accepted, as I did last week, your original amendment; but the two new ones, in the way that they are framed, are simply not acceptable to the Government. Your new wording for clause 22 would have us carry on in a never ending cycle of consultation. We all hold that word "consultation" up in this Assembly as something that is good and proper, and there is no question about that. But there is an end to that line somewhere, and Mr Jensen would try to lock us in to a never ending cycle so that everything simply gets blocked up.

I regret that the system has broken down on this amendment, where we would have agreed on something. That is not the responsibility of this side of the house, because we have bent over backwards to be accommodating. The Government cannot support either of Mr Jensen's amendments.

MR JENSEN (11.56), by leave: I am disappointed that - - -

Mr Wood: How many more amendments are you going to bring up to me today?

MR JENSEN: This is the only one, Bill. The only other one is one that has been suggested to me by your officers. As I said, the amendment to clause 22 was accepted by your officers. All I am proposing to do is to add one extra step.

Mr Wood: Yes, and that is where it falls down.

MR JENSEN: Okay. I am disappointed that, because of that, the Government is not prepared to accept my new subclauses (6) and (7), which were, in fact, agreed to. I think it is very disappointing if that is the case. At this juncture I would like to put it on record that I formally thank Mr Wood and his officers, both in the Parliamentary Counsel's Office and within Mr Wood's department, for the advice, assistance and time that have been put into working up these amendments.

I can only reiterate what I have said in this place before; that is, that the planning legislation is not the only planning issue that we have been involved with in the last three months, and that the legislation, the Territory Plan and the variations have all come together at the one time. Frankly, Mr Wood, as you well know, there are only so many hours in a day.

Mr Wood: You, more than anybody else, could have been on top of it long ago.

MR JENSEN: That may be so, but this problem occurred because of our involvement in those other planning issues that were happening at the same time. That is one of the problems that we have in this place, with limited facilities and resources and quite a lot going on at the one time. It would be disappointing if the Government did not support the first part of my amendment.

MR MOORE (11.58): Mr Speaker, having heard the debate, I should, first of all, put my opinion on the table; and that is that the amendment that was circulated on 2 December 1991 by Mr Jensen - the amendment to clause 22, with its modifications - I believe, should have been accepted by the Assembly. I can understand people finding that the extra onus of actually writing to individuals - and putting provision for that into the legislation - is inappropriate.

I think it is something that, on particular occasions, still ought to be done. I think we all recognise that the Planning Authority, by and large, has done that sort of thing; it has really bent over backwards to ensure that it does communicate with and reach out to the community. It is certainly important that it gets credit where it is due, and it is due in that regard.

So, I would be reluctant to force on it the new subclause 22(8) that Mr Jensen proposes. I was quite happy with Mr Jensen's amendment No. 19 as he has moved it, but it is quite clear that he does not have the numbers. But members are prepared to accept his original amendment and, therefore, I should like to move the amendment that Mr Jensen originally proposed, giving him credit for it - or I could stand aside and allow Mr Jensen to move it. I have circulated it, just for members' ease of working with it in the chamber. I make no bones about it; it is straight from the proposed amendments that Mr Jensen circulated the other day.

Mr Kaine: You anticipated me, Mr Moore.

MR MOORE: I anticipated the problem. Therefore, Mr Speaker, I move - - -

MR SPEAKER: Order! You cannot move at this time.

MR MOORE: I now foreshadow that, if the amendment before the Assembly is lost - and I still urge members actually to support Mr Jensen's amendment No. 19 - I will move the amendment that has been circulated in my name, with due credit to Mr Jensen.

Mr Wood: We will agree with that.

Mr Jensen: Will you accept subclause (7) or not?

Mr Wood: No, we will agree with that.

MR SPEAKER: Order, Mr Wood, please!

MR COLLAERY (12.00): This could be an arduous day. Perhaps Mr Jensen's foreshadowed amendment proposing a new subclause (8) was the last straw. I believe that it probably was for Mr Wood. Nevertheless, previously made arrangements should not fall out as a matter of pique, I hasten to say - and we will not rise to Mr Kaine's allusion to the gnomes behind Mr Jensen's drafting work. I can assure him that there are very few people assisting Mr Jensen - and that all has to do with the Labor-Liberal coalition in this house which has denied us adequate resources. Mr Jensen, in fact, works right through, day and night, in this house, and I think it was churlish of Mr Kaine to make that remark. The amendment circulated by Mr Moore is a backup amendment and, of course, we will support that foreshadowed amendment if the arrangement that Mr Jensen has reached with the Minister is not followed up.

MR SPEAKER: The question is: That Mr Jensen's amendment No. 19 to clause 22 be agreed to. Those of that opinion say Aye; to the contrary, No. I think the Noes have it.

Mr Jensen: Mr Speaker, I raise a point of order. As I understand it, the issue that we are looking at is my circulated amendment No. 19, which includes subclause (7). So, it would seem to me, then, that the Government is, in fact, not supporting what it had already agreed to. I wonder whether it wants to reconsider.

MR SPEAKER: Are you calling for a vote on this, Mr Jensen?

Mr Jensen: Yes.

Question put:

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

The Assembly voted -

AYES, 4	*NOES, 12*
Mr Collaery	Mr Berry
Mr Jensen	Mr Connolly
Dr Kinloch	Mr Duby
Mr Moore	Ms Follett
	Mrs Grassby
	Mr Humphries
	Mr Kaine
	Ms Maher
	Mrs Nolan
	Mr Prowse
	Mr Stefaniak
	Mr Wood

Question so resolved in the negative.

Amendment (by **Mr Jensen**, by leave) negatived:

Page 12, line 34, add the following subclause:

"(6) The Authority shall by notice in writing served by post on each person who provided written comments concerning the draft variation (being a notice served within 7 days after the decision to review the draft Plan variation is made by the Authority) advise the person that documents referred to in subsection (1) are available for public inspection.".

MR MOORE (12.08): Mr Speaker, I rise to move the amendment that I foreshadowed. The amendment that I circulated I had taken from a much earlier draft that Mr Jensen had given me. At that stage it did not include the words "on a Saturday". So, I am circulating a revised version. I move:

Page 12, line 35, add the following subclause:

"(6) Where a draft Plan variation has been revised the Authority shall cause to be published in the *Gazette* and on a Saturday in a daily newspaper circulating in the Territory that the draft Plan variation has been revised and that copies are available for public inspection.".

Of course, the credit for this amendment goes to Mr Jensen, as I made very clear before. The issue concerning the words "on a Saturday" is one that I raised with Mr Wood and his advisers, and we spent some time discussing this. They certainly presented some difficulties that they found with that inclusion, and I am sure that Mr Wood will present those difficulties to the house in a short while.

It seems to me, however, that it is very important for people who follow planning matters to have some idea of when and where things are going to be advertised. Whilst there are some inconveniences associated with that, I think it is a very reasonable thing to know, if you are interested in planning matters, that all you have to do is look in Saturday's public notices; it cannot sneak through on a Monday.

If you are interested in planning matters and you are away for a week, and you have heard that a variation is proposed for your area or there is word out that something is going on, there is no trick to it; you do not have to chase *Gazettes;* you simply have to get Saturday's paper. In the ACT, Saturday's paper has the widest circulation of any paper that is published here, within the definition of "newspaper" in this Bill. That is important, because that is the paper that will reach most people.

There is no doubt in my mind that that will not be 100 per cent convenient for the Planning Authority. The convenience goes much more to the public in this case. But it is important that we recognise that administration is there not so much for its own convenience but to try to make things convenient for the public, where at all possible. As I said earlier, I accept that that has often been the case in recent years with the Planning Authority. But this is an appropriate mechanism to include at this point.

The matter of advice in the newspaper comes up quite a number of times in the Bill. I think it is important that we have a consistent approach, and this Assembly now has the prerogative to ensure that that consistent approach will follow through, and that we will have public notices appearing on a Saturday - in the area where people go to look, if they are interested in planning issues.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (12.12): Mr Speaker, I understand what Mr Moore is saying. It would be a good move, if we could do it that way, to make provision so that those who are interested in these things could know that they could catch up on these things by looking at their Saturday paper. But there are problems with it.

While it is not necessarily directly relevant to this clause - which talks about what the Authority will be doing - I have opted for consistency, because Mr Jensen has proposed amendments to require advertising on the Saturday in other parts of this Bill. The problem with specifying the Saturday is that, if your local builder, who is not always exactly spot-on in relation to procedures and the bookwork and the paperwork, happens to lodge a notice, prior to taking out some work, on a Friday, when a Saturday is specified, he has to do it again, which would slow him down.

Alternatively, we could face the prospect of him doing it on a Friday, nobody picking it up, and there being a question, subsequently, of illegality because it was not listed on the Saturday, as required in the legislation. So, there are quite severe potential problems in specifying a particular day of the week. Good though Mr Moore's suggestion is, I believe that it would create difficulties that we ought to avoid.

This clause refers particularly to the authority, and one expects that, being better organised, it would not make mistakes. But it is important to maintain that consistency, I believe, throughout the legislation. I do not believe that the good intention will work in practical circumstances. I move the following amendment to Mr Moore's amendment:

> After the words "*Gazette* and", omit "on a Saturday".

MR MOORE (12.14): The argument presented by Mr Wood, on its face value, seems quite sensible; but I think its spuriousness can be demonstrated by turning to the definition of "newspaper" on page 3 of the Bill, line 3, which is:

> "newspaper" means a newspaper published and circulating in the Territory.

One could apply exactly the same arguments to a builder who has made the mistake of putting his public notice in the *Australian*, which is not actually published in the Territory, or in the *Chronicle*, when in fact we say in this amendment "a daily newspaper".

I think that what we are looking for is consistency. It seems to me that anybody who is involved in the building industry will very quickly learn that such a provision

applies and that the notices go in on the Saturday. They will probably also get assistance from, for example, the major newspaper, and, assuming that the major newspaper remains the *Canberra Times*, as it currently is, I think we can expect that the *Canberra Times* will know that major publications like this go in on a Saturday.

That is not a guarantee. I accept, Mr Wood, that that is not a guarantee. But I think that, when we are considering a possibility after a possibility in a series of vague possibilities of what might go wrong, the weight of evidence still comes down strongly in favour of including the Saturday and not accepting Mr Wood's amendment. Mr Wood presented the same argument the other day when I was discussing this matter with Mr Wood and his staff. I should, at this point, place on the record the fact that I appreciated Mr Wood making himself and his staff available to go through a series of amendments. I think that was a very positive way of dealing with such a complicated series of issues. I urge members to accept that in this case the potential inconvenience in an unlikely situation is well outweighed by the convenience of people knowing that Saturday is the day.

MR JENSEN (12.17): Mr Speaker, the Rally will not be supporting the Government's amendment.

Amendment (**Mr Wood's**) negatived.

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

Clause, as amended, agreed to.

Clause 23

MR JENSEN (12.18): Mr Speaker, the Rally opposes this particular clause. It may seem a small one; but it relates to the provision for defined land, and we would like the provision for defined land deleted. Of course, we have sought to resolve this issue in the past, via amendments to the interim Territory planning legislation recently. We were unsuccessful then, and I suppose - I can count - we will probably be unsuccessful here again today. But that is not to say that we will not seek to put a couple of issues on the record in relation to defined land. I know that Mr Moore will also be speaking on this matter.

I will not take up too much of the time of the house, but I think it is important to make some direct comments on it. What we are concerned about in relation to the use of defined land is that, once the plan variation goes through on this basis of defined land, that is effectively the last time that the community will have any major say in the process of development.

I know that it has been suggested that a draft variation that is approved with defined land in it identifies certain criteria and standards that are required to be enforced, et cetera, and that, in fact, most of those criteria and standards will have to, in themselves, go through a process of consultation prior to agreement, particularly in relation to design and siting approval. But there are some other issues that I think are not necessarily covered by that proposal. I think it is important that people be involved in this final stage of the development. Once again, I think it gets back to the issue of public consultation.

I know that there are some people within the bureaucracy and the two major parties that seem to have some difficulty with public consultation. My experience is that with public consultation it is often better to put it all on the table and talk it out at the time, and you end up with the issue being resolved, because in most cases people generally just want to have their say and have their views heard. In most cases they will accept the logic of the argument that comes out and will move on.

I encountered that a number of times during my period as Executive Deputy to the Chief Minister with some responsibility for planning, and I found that that was an appropriate and very useful way to go. The officials that worked with me, the community groups and other organisations and even the developers involved in those round table discussions, I think, were all slowly starting to realise that it was a process that could be made to work, and work well.

So, on that basis, we are concerned that the defined land issue is really locked up. In the case of Gungahlin and the case of West Belconnen where it is being used, the defined land concept effectively just draws a line around a suburb and says, "This is what is going to happen - nothing else". What I am suggesting is that we may want to look at this issue in future. I was working on some possible further amendments in this area - at the risk of earning the ire of the Government - but because of some changes and the time factor I was not able to bring them forward.

Maybe we need to consider something along the lines of allowing the authority to place a notice in the *Gazette* and, of course, a newspaper, along the lines that Mr Moore has suggested, on a Saturday, saying that detailed planning for an area previously identified as defined land has been completed and that details can be obtained from the authority and are available for public inspection.

As I have already indicated, copies should also be sent to all those who participated in the public consultation process, and the Legislative Assembly's committee, advising that, unless otherwise directed by the Minister or the Assembly, the changes will take effect, say, for example, 21 days after the notice in the *Gazette*. That would be the

minimum time. It would depend a lot on the nature of the proposal. The Minister then, on receipt of a report from the Assembly committee, which may in fact agree with the proposal, could then make a final decision and either withdraw the proposal in whole or in part or authorise its promulgation.

That is a solution. I do not know whether that would be accepted, but I put it on the table for discussion. Maybe that is something that we could look at in relation to the future of this concept. I know that Mr Wood has indicated that there will be a review of the legislation, and that may be one of the areas that he wishes to look at. Defined land is an important issue. It is too important just to write it off without expressing some of the concerns that I know the community has built up over long periods - concerns about the planning process and the failure to be fully consulted in the final stages, because usually that is when people find out about it and that is when the problems usually start.

MR KAINE (Leader of the Opposition) (12.23): I really think that this debate about the inclusion of the concept of defined land in this Bill gets to the core of the problem and the things that worry people about planning in Canberra. If we picked up a lot of the things that Mr Jensen is putting to us, we could have at the end of the day a very prescriptive Act that, in fact, would make further development almost impossible because one would have to go through so many processes and get so many approvals from so many people, and get endorsements for this and consult on that, and gazette it here and get responses there.

One of the things that the Alliance Government had in mind when it set about drafting this Bill - and I think it is still a principle that has to be taken into account - is that there needs to be predictability in the planning process. We could write a prescriptive Bill. There are some people who even think that we should not allow another resident to build a house in Canberra. I saw an interesting letter to the editor of the *Canberra Times* on this matter the other day. With our natural rate of growth of over 2 per cent these days, I wonder how you tell those 2 per cent every year, "You are going to have to go and build in Sydney or Melbourne because we do not want you here" - let alone anybody that needs to migrate to Canberra for many, many reasons.

It is clearly not practical to say, "We are going to draw a ring around Canberra and there will be no more development - no more houses, nothing". There are areas of Canberra where you have to be quite prescriptive, I think, about what you can and cannot do. I think that the Forrest bowling club was a classic case of that. People have been

living there for years; they see that piece of ground in a particular light, and you have to deal with that very small plot of land in a very sensitive way. You have to go through a comprehensive process. But when you are dealing with greenfields development on the outskirts of town it is a different matter.

So, I think the concept of defined land is very important if we are going to see Canberra continue to grow in a logical and orderly way; and to encourage people to get out there and build more houses you have to allow them to use their innovation. The Government itself has to have a certain amount of flexibility in how it goes about the development of new suburbs and new neighbourhoods in Canberra. To remove from this Bill the concept of defined land, in my view, takes away entirely that innovation and flexibility from the Government and from future builders and developers out there.

It would bind us to the concept that every individual plot of land has to be developed and dealt with in isolation from all the rest, and I do not accept that as being a reasonable and sensible way to go. I think the concept of defined land is a good one; it allows the Government the flexibility that it needs - and it can prescribe the guidelines, the terms and conditions under which development within a prescribed area shall take place. There is no suggestion, as is often implied by opponents of further development, that the Government is simply going to say to some developer, "Here is 100 hectares. Do what you like". That is not going to happen ever in Canberra. No government would be that stupid; no planning authority would be so lax in the performance of its duty as to allow that sort of thing to occur.

So, even within an area of land defined for this purpose, the development will be ordered and orderly, and it will be carried out under proper guidelines, design and siting rules and all of those things that apply. I believe that it is an essential element of this Bill to allow new areas of Canberra to be developed in different ways.

I could concede, as a result of the sustainable Canberra paper that was published recently, the concept of urban villages. I can see that this fits very nicely; that you can say to some prospective developer or consortium - or perhaps it could be on some joint venture basis - "There is an area of land on which we jointly will build an urban village. It is defined land, and now you, the consortium, come and tell us how you see this being developed. Let us see how innovative you can be; let us see new concepts being built into this, instead of building more suburbs that look like Page, Lyons and Chifley". We can do better, and we can be more innovative; and the concept of defined land allows us to do so.

So, I find it rather difficult to believe that the Rally is really serious when it says, "We want Canberra to remain the stereotype that we have established; we want no innovation; we want development never to be any different from what we have now; and the way that we will achieve that is to take out this concept of defined land that allows the Government the flexibility that it requires".

I am amazed that somebody who knows as much about the planning Bill and planning issues generally as Mr Jensen does should be putting forward the notion that this concept should be taken out of the Bill and that we should never consider something that is new, different and innovative. It indicates a closed mind, which I frankly do not believe that Mr Jensen has. So, I wonder where the impetus for this has come from - who it is that has prompted him to take this view - - -

Mr Connolly: Which gnome?

MR KAINE: Yes, one of those gnomes. I wonder which one has prompted him to take this narrow, closed minded view of wanting to take this concept out of the Bill and take with it the innovation and initiative that it implies. So, I certainly cannot support the Rally, or Mr Jensen, in this intention to remove this concept from the Bill.

MR MOORE (12.30): Mr Speaker, in his speech the Leader of the Opposition, I think, raised a series of concerns that are basically groundless. The concept of having defined land is not necessary in order to achieve the sorts of innovations that Mr Kaine has talked about. In fact, I think that can be adequately demonstrated by the fact that, with its problems, Kingston, for example, has been redeveloped using a process of public consultation. I am not setting up Kingston as a model and saying, "This is how it should be done". What I am saying is that, under a system without defined land, it is certainly possible still to achieve the very things that Mr Kaine has talked about.

The one difference is that, where there is not a defined land concept, there is a requirement for a certain amount of public input, and a certain ability to appeal against the concepts. It may well be that a consortium has a very good concept and that certain people who wish to appeal against it find that their concern is groundless. That happens, of course, constantly, and quite appropriately so. It is also quite possible that there are some very good grounds - for example, environmental grounds - upon which a consortium's proposal ought not to go ahead. But the community as a whole, under this defined land system, will not have the opportunity to have an input of that kind. I think that is the difference.

I fail to understand - and I have heard the argument put on many occasions over the last few weeks - why it is that members of the Liberal and Labor parties particularly are

so frightened of appeals. What appeals do is empower people. They give people a chance to have their say. It does not give them the sort of power that says, "No". What it does is give them the power to present their view. That is all it does.

To prepare an appeal takes a tremendous amount of work; it takes a tremendous amount of effort. I have heard it said that Canberra people are too litigious in this sort of area.

Mr Kaine: Only some of them, Michael.

MR MOORE: Exactly. The Leader of the Opposition interjects, "Only some of them". He is probably aware that I have an appeal under section 11A in the Supreme Court this Friday.

Mr Wood: It should not have to go to the Supreme Court, should it?

MR MOORE: Mr Wood now interjects - and we digress a little here - "It should not have to go to the Supreme Court". We are all in agreement with that. It is very awkward, and it is an entirely inappropriate place in which to have these sorts of planning appeals. There is no question about that, and I think we are all in agreement on it. When the Supreme Court was originally used, of course - and I think I have mentioned this in the house before - it was as we perceive the AAT today; and I hope that the AAT never develops into a body like the Supreme Court where such matters become so legally embroiled that the only way to achieve something is by a very expensive methodology employing QCs and so forth.

I think it is very important for us to accept, though, that the simple way to deal with appeals is to ensure that they can be done very quickly and in a non-legal framework, as much as is possible. I think that is what would have given certainty to members of the public, to the residents, as far as this Bill went. The defined land concept does not. All that the defined land concept does is give certainty to the people who are proposing the development.

When this legislation was originally being discussed and we were setting out the principles of it, a couple of years prior to self-government - Mr Jensen will remember - there was a great deal of talk about certainty. But what we understood was that there was to be certainty for residents as well as for the developers. What comes out of this Bill, though, in the areas where there is no chance for appeal, especially when you read it in conjunction with the draft Territory Plan, is that the developers will have certainty but the residents will not.

The solution was straightforward, and that was to have a rapid appeals system with a defined amount of time in order to ensure that the developer could put up a proposal and know, have certainty, within a month or six weeks, whatever

the defined time was, whether or not he could proceed with what would seem to be a sensible proposal. That way, each proposal could be assessed on its merits within the guidelines provided by a plan - and, importantly, a guideline provided by a strategic plan with a long-term view. We do not have - and, with this draft Territory Plan, will not have - a strategic plan with a long-term view. Yet that is how we are going to do our planning. It is absolutely appalling.

When we dealt with this legislation earlier, I attempted to get this Assembly to realise that, as a temporary measure, we could at least use the Metropolitan Policy Plan for our strategic plan with a long-term view until a strategic plan had been developed. I think that that is something that, over the next day, I will continue to negotiate for, because it really does make sense. I think members at the time were probably taken a little by surprise, and I must say that some of the fault for that is mine because it was not something that I had circulated and drawn to members' attention. But I think that is something that we really must consider, because planning with only a short-term view is entirely inappropriate.

With reference specifically to the defined land concept, I guess this is really the extreme, because, once a decision is made, no member of the community, apart from those in the consortium involved, will have any say in the matter. I believe that Mr Jensen's opposition to this clause is entirely appropriate. In fact, it falls into line with an amendment that I circulated in relation to clause 30, which I believe would basically achieve the same result. But, if Mr Jensen's amendment is lost, then, clearly, there is no point in my moving mine. So, we will look at that when we come to it.

MR COLLAERY (12.37): In introducing this Bill, the Minister said:

> The Government believes that greater predictability can be introduced into the planning and land management system if applications which accord with the Territory Plan are not subject to public notification third-party appeal.

The Minister also said:

> The argument is, essentially, that the ACT will have a Territory Plan which will be developed in consultation with the community, approved by the Executive and subject to possible disallowance by the Assembly.

There are antithetical movements within this Bill that need to be ironed out. The way that the numbers are looking, clearly, the defined land quarantine from community appeal and review will remain at this stage. But it will certainly be the case that the community will continue to

take an interest in the broad scale planning decisions, and the community will not accept the situation put forward by Mr Kaine, the Liberal leader, that there is a point where planners should abdicate in favour of innovative and interesting planning.

Mr Kaine, the Liberal leader, said that the Rally is somehow seeking to hold back innovative developmental activities within the Territory. I think there is a lot of cross-purpose argument in this. The Minister has said two different things in his introduction speech because there are two antithetical things in the Bill. We all realised that they were going into the Bill. It was a matter that was being pressed by the green-acre developers particularly; that is, they wanted predictability and a general permission to operate within an area without further appeal.

On the other hand, the Government is committing itself to consultation with the community. For example, it might be a community partly in place in the new suburbs of Gungahlin, and it might want to have a say about the ongoing developments within a few hundred metres, or within 100 metres, of newer suburbs and the rest. Of course, there will not be any third-party rights in that circumstance, as we see the concept of defined land.

So, I simply want to put on the record that this antithetical situation is a theme in the Bill. It is an attempt, we feel, to balance those two competing interests, and we feel that the "as of right" concept of development within those defined land zones will ultimately be challenged by the community. We think it would be better now to tackle the defined land concept to see whether we cannot actually reduce conflict and disagreement in the community by providing the same conciliatory processes - because they essentially are not only consulting but also conciliatory processes - that the Bill provides in other areas.

Of course, this is an appropriate juncture at which to say that many of us do not see the broad threat of many, many community based appeals that other people are apprehensive about. We believe that, by and large, we have responsible planners in the Territory and that, by and large, so long as the Territory Chief Planner has proper tenure and proper independence from a very powerful bureaucracy in the form of DELP, we will be safe.

Of course, one aspect of this is whether, in due course, the planners themselves can take the initiative to unshackle themselves from the defined land concept. It is there at the moment as a sop to those who fear that there will be unnecessary and unjustified interference in the early developmental stages of this legislation.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (12.42): When the proposals for the Bill first emerged, and when there was discussion in the days of the first Follett Government, consideration was being given to how to deal with broad-acre development. Options were presented suggesting that we could be entirely prescriptive or that it may be useful to go down the path of allowing a little more flexibility. I forget the precise words that were used. Then, when the Bill was prepared and further developed under the Alliance Government, the particular clauses that we now see were written in.

The Residents Rally at that time apparently - clearly - agreed with the defined land clauses being included. It was never, to my knowledge, part of the many arguments between the Liberals and the Rally within the Alliance. Now we see a change of direction. We see the rhetoric emerging that the defined land concept will allow open slather for developers to do as they wish in broad-acre development - and, let us be clear, this defined land concept relates only to broad-acre land development. Of course, it is only rhetoric; it is simply not the case. As in everything to do with planning within the ACT - the Acts, the requirements, the administrative arrangements - everything is very prescriptive.

The defined land concept works well within the requirements in this legislation that policies and conditions be laid down quite clearly beforehand. As part of that, the recent draft variations for Gungahlin specified how it should be developed and allowed ample scope for the community to comment. And, indeed, people are commenting on it. I am getting no small amount of comment, and maybe other parties in this Assembly are too.

The principles, the policies and the guidelines are laid down; have a look at those variations that went out. This proposal of defined land will allow some flexibility. It will allow, for example, the person developing the broad acres to make changes without having to go through the rather exhaustive draft variation procedure. If that person finds that it is better to take a street alignment in a particular way, then that can be done. If it is found on the site that putting an intersection at a particular hilltop or slight rise creates a difficulty that was not foreseen when it was prepared on paper, then that can be changed. It allows a sensible variation to what is happening.

In the end, once the developer prepares his or her plans, they, in any case, come back to the Planning Authority and, of course, the Minister can be well and truly involved in that. I am sure that every planning Minister of this Assembly - whoever follows in this position over the years - will take a most active interest in the very important aspect of developing new areas. There is nothing

much more important in planning than the new suburbs that we design. It is not a blank cheque to developers; it is nothing like that at all - and I think it is a gross misrepresentation to say that it is. It is also, let me repeat, a very considerable turnabout on the part of those members of the Alliance who had earlier supported such proposals.

MR KAINE (Leader of the Opposition) (12.46): Mr Speaker, what I am about to say I could say under standing order 46, but I will use my right to a second speech to say it instead. Mr Collaery may have been listening to his gnomes; but he obviously did not listen to me, because he said on the record that I had advocated the abdication of the planners from planning. I did nothing of the kind. In fact, I went to great lengths, I thought, to explain that, under development of a piece of defined land, all of the normal prescriptions would apply - and I even mentioned design and siting rules, I believe.

So, there is no such intention in this Bill, and certainly not in my mind - should I become the Chief Minister again and the planning Minister next year. There is no intention for - and this Bill will not allow it - the planners to abdicate from the job of planning, even in respect of defined land. Mr Collaery objects to other people putting into the *Hansard* things that are unfavourable to him. I think he needs to have some regard for what he says about others.

There is no such intention on my part; there is nothing in this Bill that would permit it; I did not say it; and clearly there is no intention on anybody's part that planners abdicate from their job. They would have just the same responsibility in connection with land being developed as a piece of defined land as they have under any other arrangement in the city.

In fact, I would suspect that, planners being planners - and they have demonstrated that they have a certain zeal in Canberra - they would probably be even greater zealots in making sure that what happened within a defined area was consistent with the planning legislation, the Territory Plan and other guidelines and regulations than perhaps they might be in other areas, because they might well feel, as Mr Collaery apparently does, that, if they do not make sure that things are happening correctly within a defined area, then they could easily slip and something could be allowed to happen there that might not be desirable. So, to repeat: The concept of defined land does not imply that the planners abdicate, and I did not say that they would.

MR JENSEN (12.49): Mr Speaker, there are a couple of things that I think it is important to remember. Maybe Mr Wood misunderstands the application of the term "defined land".

Mr Berry: We talk about Dennis Stevenson. This one is worse.

MR JENSEN: Mr Berry says that this is worse, but this is a very important aspect. As I read the Bill in relation to the definition of "defined land", it says "Upon approval of the subdivisions"; it does not say where that subdivision could be. That subdivision could be in Kingston, for example. You could make an area of defined land in Kingston. It does not necessarily have to be a greenfields suburb, or, if it does, it does not clearly indicate that within the legislation - neither in this legislation nor in the interim planning legislation that we previously approved. Section 25 of the Interim Planning Act says:

> Upon approval of the subdivision of a parcel of defined land, the Authority shall, by notice or notices published in the *Gazette*, vary the Plan to specify the purposes for which that land may be used.

Clause 31 of this legislation says basically the same thing. Maybe Mr Wood can find where I am wrong, but it seems to me that there is no provision within this legislation to require the Planning Authority to declare as defined land only those areas that are related to greenfields subdivisions or development. It could be any subdivision. It could be a subdivision in the middle of Monash, for example, where in fact, as we have seen, what was originally going to be a golf course is now going to be something else. That is a subdivision. It is in the middle of an existing suburb; it is not necessarily a greenfields development.

It is important to get this whole thing in context. Looking at the approved variations to the Gungahlin suburbs of Amaroo, Casey, Harrison, Ngunawal and Nicholls, which were tabled in this Assembly recently after being signed by the Executive on 26 November 1991, I notice that Mr Wood did not actually put the date against his signature. Ms Follett signed hers and put the date against it. I hope that the one date covers both, but - - -

Mr Connolly: But you can be assured that they were genuine signatures.

MR JENSEN: That is an interesting point, but I do not intend to take it any further. I think it would be highly inappropriate. But, if we look at page 1 of the variation to the Territory Plan, we see that what is established is a series of planning principles in relation to boundary hills and internal ridges, a water protection system, the development of suburbs, the town's bicycle and pedestrian system, the road system and subdivision design. They are general planning principles that are applied. In fact, it says, for example:

> The road system should be hierarchical and incorporate urban design themes, while providing for efficient and effective public transport access.

The whole problem with defined land is that, turning over to page 3, we see that a total of six suburbs have been termed "defined land"; this whole area is being assessed as defined land. Some arterial roads have been identified, and it says, "Indicative distributor road alignment". "Indicative", to me, means that it could be changed - that it is there, but it is indicative and it is not set in concrete. That is exactly what it says.

So, what we have here, in fact, is that this whole area can be developed in accordance with certain general principles. The point to remember is that, once this document has gone through and has not been disallowed, under the process that we are currently applying, when the new Territory Plan comes into force, that is the last time that the community will have any chance to appeal.

The community will not be able to check and assess whether, in fact, these general planning principles that have been outlined in this Gungahlin variation have, in fact, been followed. That is the whole issue and concern. Those planning principles are very, very general, Mr Wood. I would suggest to you, Mr Wood, that this whole concept may in fact end up, as my colleague Mr Collaery suggested, causing more problems than it is worth, because there will be people seeking, through the appeals processes and through the Assembly process, to have a greater say in the final development.

If we go a little bit further on this variation that has been approved, we come to page 9, which deals with the suburb of Harrison - a very important suburb, of course, because of the person that it was named after.

Mr Wood: What page are you on?

MR JENSEN: I am talking about the actual variation, Mr Wood, that was signed by Ms Follett on 26 November. Unfortunately, you forgot to put your date on it, but never mind. The suburb of Harrison was named after a very well-known planner in the ACT who was very involved in the development of Canberra and with the NCDC. We see very clearly on that variation that there are a few indicative roads. There is a line that says, "Formal linear tree planting". It is just an indicative line; it just says where it could be. Might I suggest to you that also that particular document shows no information in relation to terrain or topography. There is some general reference to the existing tree groups. It says, "Existing tree groups to be retained".

These are general principles that are being applied; they are not specific principles. What I am suggesting is that the community, in fact, wants to have some final say in the final design of the suburb. They do not want to dot every I and cross every T. They just want to participate in the final design and assist the Government to ensure that innovative development proposals are put forward. Anyone who has heard me speak in this house in relation to planning and development issues and housing issues knows that I am interested in and keen to see the development of innovative projects such as the Green Street proposals. Mr Wood will get a letter from me today about that particular issue.

I could mention also the model Australian building code for the design of developments in our suburbs, et cetera; the need for passive solar design - all these innovative designs. No-one can suggest that I am not concerned with and interested in innovation. But I think it is important to remember that innovation is a total community consultation process, and I do not think it is inappropriate to allow the community to have some final say in the final direct layout of its suburb.

What this defined land process does is, in fact, stop the community involvement in the final stage of the development of that suburb. It seems to me that that is really the point at issue here in relation to defined land. That is why I think this whole concept needs to be reconsidered and re-examined, because I believe that an appropriate balance can be found between this very broad brush approach that we have here and having a greater role for the community's involvement in the final decisions related to the suburb.

We are talking about six suburbs that are going to provide 8,000 building blocks for the ACT. On current usage rates, that is just under four years' development. A lot of changes can be made over that period of time. I know that Mr Wood is concerned about this particular proposal because he is concerned about there not being sufficient provision of land. But we are talking about 8,000 blocks - almost four years' demand. Some would argue that, if the GST proposals come to fruition, it may be even longer than that, because the public service in the ACT may suffer a bit of a downturn.

We have seen that happen in the past in the ACT. Many of us will recall acres and acres of suburbs and roads that were waiting for years and years. I do not for a minute believe that it is going to be as bad as that, of course. I think Malcolm Fraser put the dead hand on Canberra back in 1975 and I do not think that did this town any good. I do not believe that we will see the same sorts of problems. But there will certainly, I believe, be the possibility of a reduction in demand.

So, we may be talking about even five years of land proposals in this area. That is quite a period, Mr Wood, and, as I said, this is the final stage. The community has no more involvement in the matter once this process has been gone through. That is the issue that we are concerned about, and that is why we seek to take the defined land process off the books so that we can have another look at it and include the proposals that we now use for draft variations.

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

Sitting suspended from 12.58 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Ministerial Accountability

MR KAINE: I direct a question to Mr Berry, the Minister for Health. I would like to refresh Mr Berry's memory with a quote from the *Hansard* of 7 June 1990 from Mr Berry:

> It is appropriate that the Opposition should be able to put questions to the Government to expose its failings and then, hopefully, prod it to better government. We know that is difficult, but we intend to pursue that line without pause, and I think the Government should have the good grace to allow us to question it closely.

Is that still his view, and does it relate to the present Opposition as well as the previous one?

MR BERRY: That was a very good question, Mr Speaker, because it gives me the chance to come up with a very good answer. The first thing I would like to touch on, of course, is the rights of the Opposition. It is true that the Opposition should be able to prod a government into better government by way of its questioning; but I have to say that this Opposition really does not need to do it, because they have a good Government. They really have not much to worry about in that respect.

In relation to the issue of questioning, sure, I think appropriate questioning is good, provided that it does not go across reasonable bounds. I think one example of where it has gone across reasonable bounds is the pressure that has been put on the Board of Health by way of the motion of this Assembly in relation to the provision of figures. I have circulated a letter from the Board of Health which sets out the chairman's view in relation to that, and I have indicated that I will be moving a motion to amend the motion that was passed by this Assembly, to reflect, I suppose, the request that has been put by the chairman of the Board of Health.

So, within reasonable bounds, I think questions which are related to government, rather than management issues and gross interference with management, are appropriate to be put on record for the Government to answer, and they will be answered, on notice if necessary, after a reasonable time, and without notice if the information happens to be available for the relevant Ministers.

MR KAINE: I ask a supplementary question. I take it, then, that you have no objection to the Opposition asking you questions that have to do with ministerial accountability, and that you will have the good grace to answer those questions.

MR BERRY: I do not know where all this is leading us; we could waste question time on these sorts of issues. I have been called upon, as you would recall - I cannot recall the wording of the motion - to pay due regard to the questions of the Opposition, and I will pay due regard to them.

Capitol Cinema Redevelopment

MR STEVENSON: My question is to Mr Wood. It relates to the Interim Planning Act 1990 and a draft variation to the Territory Plan, specifically the variation to policy for Griffith, section 96, block 1, the existing car park at the steps of St Christopher's Cathedral, which I understand has been called for by the Government as a result of a proposal to expand the Capitol Cinema at Manuka. Does the proposed cinema development conform to the National Capital Planning Authority's development control plans which seek to secure the integrity of the main avenues as approaches to the parliamentary zone and ensure that the setting, buildings and purposes of development enhance this function?

MR WOOD: The particular draft variation that Mr Stevenson mentions is one to which the Government is giving very close consideration. We are battling to consider all the ramifications of that, while wanting to pay due respect to the commercial realities of the proprietor of the cinema, and still, if we agree, to have it tabled in this Assembly in time for the matter to proceed. The question you raise is one that has been considered. It has been said in various places that there are problems with that proposal; but, as I understand it, the developer's proposals do conform with all requirements.

MR STEVENSON: I have a supplementary question. Do I take it from the answer that the Minister has considered that the reason the cinema is losing money is that there are inadequate car parks in Manuka?

MR WOOD: No, I do not know about that, Mr Speaker. I am not even sure whether the cinema is losing money. There has been a case put that, with modern cinema development, one cinema with a fairly large number of seats on its own is simply not viable. I am not aware that there is too much discussion about the availability of car parks. There is a car park adjacent to the cinema, not very far away. If the proposal does eventuate, the car parking will be directed from immediately outside the cinema - and that cannot be more than 20 or 24 places, I would think, offhand - and it would go up the road. I am not aware that car parking is any part of the problem being experienced by the cinema company.

Health Budget - Staff Reductions

MR HUMPHRIES: Mr Speaker, my question is to the Minister for Health. I refer to the answer he gave last week to a question from Mr Kaine, which was taken on notice, concerning staff reductions in Health. In that answer the Minister advised that no staff of the 275 slated for shedding had yet been shed.

Mr Berry: I do not think I said that.

MR HUMPHRIES: Well, that was the way I interpreted your answer. You might like to clarify the matter, if that is the case. You indicated in the answer - I do not have it here - that a number had been targeted for shedding but none had been lost as yet. Can the Minister provide details of the timetable that he or the board is working to in shedding those staff? What number of full year equivalent staff need to be shed this year to achieve the Government's savings targets?

MR BERRY: Thank you, Mr Humphries, for that question.

Mr Humphries: I have never before been thanked by you for a question. It is quite a day.

MR BERRY: Well, there you go; there is something new every day. Of course, this question has been answered fully. Agreement has been reached between the TLC and ACT Health on a process for addressing the health unions' concerns.

In particular, as I think I mentioned last week, ACT Health has created a position of union liaison officer. The officer's role is to assist the TLC by examining proposals relating to changes in staffing profiles and acting as a conduit between the council and ACT Health. That officer also plays a vital role in assisting health unions reach a common understanding and position by coordinating their responses to proposals prior to formal consultation. The Government is committed to ensuring that the savings in

Health are achieved. The consultative process with all affected unions and the union liaison officer has to date proved advantageous to both the health unions and ACT Health management in achieving this outcome.

In relation to specific numbers, it would be difficult, in the extreme, at this stage, to provide accurate numbers, because it has to do with the classifications of staff positions which are disposed of or made redundant. I think it shows Mr Humphries' naivety on this issue for him to ask such a question. It is about working out between management and unions the number of staff positions across a broad range of classifications in a whole range of professional areas, and that process is ongoing. We have established a process with the unions which so far has been satisfactory. We intend to continue to work towards the budget savings that we said that we would achieve.

The board, incidentally, as I have said many times, have indicated that the budget settings are tight but they are prepared to live within them, and I am prepared to allow the board to manage the process of what staff reductions are necessary within the agreed processes with the unions.

MR HUMPHRIES: I have a supplementary question, Mr Speaker. I again ask the question and I hope the Minister makes some effort to answer on this occasion.

Mr Berry: I made a very sterling effort last time.

MR HUMPHRIES: It is a very simple question; just think about it. What number of full year equivalent staff need to be shed this year to achieve the Government's savings targets? If 275 staff are shed on 29 June, clearly no saving will be made in this financial year, or a negligible saving will be made in this financial year. How many full year equivalent staff do you need to shed this year in order to be able to achieve your targets.?

Mr Berry: Which level, which classification?

MR HUMPHRIES: Any classification, any one at all. I invite you to name any classification.

MR BERRY: Mr Humphries shows how naive he is on this issue. He says, "Any classification". Would it be a member of a classification that is paid $50,000 per annum or one that is paid $20,000 per annum? What classification? I told you. I answered the question fully.

Mr Humphries asked a silly question: What will be the number? As I have said, the number has to do with the classifications which are identified and the amount of wages or salary that they would receive in any one year, before you can work out the figure. The board is continually working with the unions to achieve the savings which are set out in the budget. That will require a

considerable effort on the part of the board and at the end of the year we will be able to give you a very accurate figure. The process of negotiations is very important. The target savings are the important issue, Mr Humphries, as you would know.

Construction Employees Redundancy Trust

MR COLLAERY: My question is to the Minister who wants to own up for the long service leave board. It could be the Chief Minister or Mr Berry. I will ask the question first, Mr Speaker, because it is quite complex. Mr Berry, of course, likes complex questions. I ask, firstly, whether funds paid into the Construction Employees Redundancy Trust by Canberra workers on building sites have gone interstate to an interstate fund, and if so - Mr Berry shakes his shoulders - whether they form any part of the $1.5m donation referred to in the current royal commission in New South Wales into the building industry. The $1.5m paid, which "broke all the rules" when the money was paid - - -

Mr Berry: Quoted from whom?

MR COLLAERY: I will quote from the *Financial Review* of 2 December 1991. It is known, Mr Berry, for being more accurate than you, I would say.

Ms Follett: I raise a point of order, Mr Speaker. I think that should be withdrawn.

MR SPEAKER: I do not believe that that is a valid point of order.

MR COLLAERY: They are sensitive. The paper reports that the Australian Federation of Construction Contractors, on 27 October this year, asked the trustees of CERT for $500,000. The paper reported proceedings before the royal commission and said that the money was paid up within three days, with little idea of how the money would be spent. I ask Mr Berry whether he is aware of what happened to those workers' moneys, and can he comment on that incident revealed in Sydney?

MR BERRY: I cannot comment on it because I have not read the article. I will have the matter examined.

Board of Health Business Rules

MR STEFANIAK: My question is to the Minister for Health. Will the Minister explain the new so-called business rules that apply to the Board of Health? Will he also explain what increased expenditure, such as wage increases, the board will not be held accountable for?

MR BERRY: Would you like the names and addresses of the people who wrote the thing? I will get you a copy of the business rules and you will be able to work it out for yourself, Mr Stefaniak.

Noah's Ark Toy Library

MRS NOLAN: My question is to Mr Wood in his capacity as Minister for Education. I refer Mr Wood to the Noah's Ark toy library. What is happening in relation to that library and its current location in Yarralumla, given that to date no further written communication has been received by the library since 4 October? In fact, the library wrote a letter to the Education Department on 17 October and they still have not received a reply.

MR WOOD: Mr Speaker, I will see that they get a reply. My understanding - I have not checked recently - is that that space is needed at Yarralumla. It is necessary for Noah's Ark to relocate. I regret that that happens. It happened about 10 or 11 years ago when they relocated from the old Ainslie Infants School. The primary use of schools is for school purposes, and I guess that any tenant of an unused part of a government school must always expect that at some stage or other it may need to be recalled for school purposes. That is what has happened on this occasion. It is my expectation that that requirement holds and the need to move is still there. I will confirm that for you.

MRS NOLAN: I ask a supplementary question. Could you confirm when they are supposed to be moving? The library now has all its equipment back from all schools, given that it is the end of the year, and it would be a very much more costly exercise.

MR WOOD: I will check that out for you. It was my understanding that it was to be from the commencement of the school year next year, in 1992. I will double-check it for you.

Hospital Bed Numbers

MR DUBY: My question is to Mr Berry as Minister for Health. I refer to an article in today's newspaper which discusses bed capacity and bed numbers in the ACT. The article quotes from a letter from Mr Berry to the Belconnen Community Council, dated 29 November, in which he is alleged to have said that bed capacity had fallen from 952 in August 1989 to 821 in November this year. I ask the Minister: Are those figures accurate, and can he provide any further light on those rather alarming figures?

MR BERRY: The figures which are used there are very selective and of course - - -

Mr Duby: It is your letter.

MR BERRY: No, no; hang on a minute. It is my letter. The figures that are quoted refer to different months in a year and, as members of this Assembly would know, or some of them might know, the number of beds in use in any given month varies considerably. What Mr Reid has done is this: He has selected months where there is a larger difference between the figures than in some other months, and, of course, has attempted to calculate that into some sort of cataclysm in the hospital system, for his own political interests. We all know about Bazzanomics - - -

Mr Kaine: Bazzanomics; I have heard about that before.

MR BERRY: This is the author of Bazzanomics, Mr Reid. His figures are meant to be emotive and to attract attention to an issue. His selection and quoting of those figures gives an inaccurate representation of what is in fact occurring in the hospitals. What they were provided with was a management program which was provided by the Board of Health.

Mr Duby, you may know what has occurred. There were 890 beds in our public hospital system in August this year. With the consolidation of beds onto the Woden Valley site, in late November, there were 858 beds. The hospital redevelopment, which will take five to seven years, will result, on current plans, in 998 beds. So, I think this report in the *Canberra Times* is sourced from somebody who is just trying to whip up a bit of hysteria about an issue.

Mr Collaery: When could the *Canberra Times* whip up hysteria?

MR BERRY: No, no, hang on; the source of the story, I said, was somebody interested in whipping up a bit of hysteria about the hospital system. I have to say that, on past performances, it has been whipped up by somebody who does not know a terrible lot about budgeting for hospitals, because at one point he was even suggesting that it would be a good idea for the Government to take over all those private beds, pay for them, and add them to the public beds, without paying any regard at all to the costs which might follow.

Mr Speaker, this issue of beds - and we have talked about it long and hard before - steers us off the real issue. The real issue is about the level of services which is provided in our hospital system. There is plenty of evidence to suggest that the measurement of beds as a performance indicator of hospitals is the wrong measure. I think it is about time that people who wish to whip up hysteria over bed numbers, rather than look at all of the issues concerned with the delivery of hospital services, rethought their position in relation to health in the ACT. I think it is irresponsible, in the extreme, to take that line without taking into consideration all relevant issues.

MR DUBY: I have a supplementary question, of course. In relation to that answer, I would like to point out to the Minister that the article quotes from a letter from him in which he refers to bed capacity, not bed numbers. To me, that has a totally different context as to the number of beds that have patients in them versus the number of beds that the system could operate. Seeing that there is a little bit of confusion, in my mind anyway, as a result of your first answer, could you undertake to provide members with a copy of that letter that you have sent to the Belconnen Community Council?

MR BERRY: I do not have any difficulty at all with that.

Policy Plan Changes

MR JENSEN: Mr Speaker, my question is directed to Mr Wood in his capacity as Minister for the Environment, Land and Planning. Does the Minister know whether the Territory Planning Authority actually checks, by visits to the field, areas proposed for policy plan changes from open space to residential, or investigations for similar purposes?

MR WOOD: Mr Speaker, I would think, in general, that they do not check each location. There are a quite large number of those incorporated in the draft Territory Plan. I will check out clearly for you whether they go to every spot in respect of preparing that plan. I think you would accept that the people in the ACT Planning Authority have a pretty wide knowledge of Canberra. I think there would be few parts of Canberra and few precise areas that they have not seen over the years. All these areas would be quite familiar to them. But bear in mind the purpose of those investigation areas.

Mr Jensen: And policy plan changes.

MR WOOD: Yes, all right; but let me talk about the investigation areas. They are exactly as they say they are; they are investigation areas. If they stay in the draft plan at the end of the present process, they then become a matter for very serious consideration, quite detailed consideration. I know that the planners would visit each site. They would go into the detailed sort of examination that you want and you get from the Territory planners. There would be nothing left undone.

An example, I suppose, is that area of land at Curtin which it is now claimed was once a dump. That may be right. If that was missed in this preliminary passage, that would be brought out. The detailed examination would involve going into a great deal of records as well, Mr Jensen, not just a visit to the site. There is a great amount of work to be done if - and I say "if" - these investigation areas remain in the draft plan.

MR JENSEN: Mr Speaker, in view of the answer, will the Minister check with the authority whether they conducted on-ground inspections of the following blocks: Wanniassa, section 287, block 2, which is a policy plan change; section 20, blocks 37 and 36, which is also a policy plan change; Kambah, section 202, block 10, part; section 272, block 8, which is an investigation area; and another policy change; Kambah, section 530, block 1, and section 531, block 2? Or are they identified as part of an ambit claim as opposed to a proper policy plan change?

MR WOOD: Mr Speaker, I will get Mr Jensen the information he wants.

Ministerial Accountability

MR KAINE: I would like to ask another question of the Minister for Health. Given his absolute commitment to the principle of ministerial accountability and his expressed intention to answer with good grace, would he care to give the Assembly an absolute commitment that, before this Assembly goes into recess on 17 December, he will create a precedent and answer a question?

MR BERRY: I think that is a frivolous question.

Woden Valley Hospital

MRS NOLAN: Mr Speaker, my question is also to Mr Berry in his capacity as Minister for Health. I would like to ask the Minister what he considers to be an appropriate time for a patient, having been admitted to casualty and having been told that he or she must then enter Woden Valley Hospital, to remain in casualty waiting for a bed?

MR BERRY: The best time, the optimum time, is straightaway.

Mrs Nolan: They go from casualty to the hospital?

MR BERRY: Yes, that is the optimum time.

MRS NOLAN: I ask a supplementary question. Given that that does not happen, what do you think is an appropriate time - two hours, six hours, eight hours?

MR BERRY: Well, what do I say? I think I said that Minister I might be, doctor I am not. You cannot make a simple judgment about - - -

Mr Kaine: Just venture an opinion, Minister.

MR BERRY: I would get myself into deep strife, I think, by venturing an opinion about how long it should be for somebody who is likely to be admitted with one degree or another of a specific illness. It seems to me that you cannot answer a question as simply as that. Yes, it does have to do with the immediate availability or otherwise of a bed - there is no question about that - and at times the immediate availability of a bed is something that has to be resolved.

At the same time, there are other issues that I have come across during my time as Minister, such as when they have decided to keep people under observation for a period rather than go through the admission procedure and admit them. There are, as I have said, issues in relation to the type of illness that one has and the degree of seriousness, the discomfort, suffering, threat to life, and so on and so forth. But people suffering from a very serious, life threatening illness will be provided with appropriate services as they require them. There is no question about that.

Overseas Students

MR COLLAERY: My question is directed to the Minister for Education, Mr Wood. I ask the Minister whether he is aware that the Federal Government has decided that all private overseas students should pay for the education of their dependants in Australia. Is he aware that there is considerable hardship to some private overseas students - that is, those not coming from wealthier parts, particularly those from the Pacific area - in meeting those very high fees, some of them up to $15,000 for the year their children are in schools? Will the Minister investigate to see whether our Department of Education is in fact levying those fees pursuant to the recent Federal Government decision? If so, could the Minister report to the house or to members separately as to whether, given the extent of our private overseas scholar non-government funded student intake, particularly from the Third World and the Pacific, he will consider discussing that matter with the Federal Government?

MR WOOD: Mr Speaker, the Federal Government has required, by way of guidelines issued, that children of overseas students who attend our schools should be full fee paying. It is not all students; there are some exemptions and some special provisions. I am aware that that does create quite severe financial difficulties for some of those people who are not wealthy. I have met groups of people who have represented that interest to me. It is a matter that we are considering. We are under a quite severe restriction, if you like, or a request from the Commonwealth Government to accord to these guidelines, and the extent to which we may be able to step aside from that or may be able to offer further concessions is presently being investigated.

Bear in mind also, Mr Collaery, that the diplomatic community in this town also provides us with considerable expense in educating their children. These are also matters that we look at. But I am aware of it. It is under consideration and I will keep you informed.

MR COLLAERY: I ask a supplementary question, Mr Speaker. I thank the Minister for his response and observe that Australian diplomatic communities are accorded similar free education in most countries - and one would be careful in touching that. I ask the Minister whether the Federal Government's decision amounts to a decision for the Treasurer of our Territory to have to raise a levy, effectively. I ask the Minister whether that levy will diminish our grants under the other arrangements, as a result.

MR WOOD: Mr Speaker, that is one of the factors we do have to consider. It is an additional complication, and I will report to you on that as well.

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

Government Dividend Payments

MS FOLLETT: Mr Speaker, on 28 November Mrs Nolan asked me a question without notice about dividend payments and the derivation of those dividends. It is a lengthy answer, Mr Speaker, and I ask that it be incorporated in *Hansard.*

Leave granted.

Document incorporated at Appendix 2.

Health Services

MR BERRY: Dr Kinloch asked me a question about the relationship between ACT Health and the New South Wales Department of Health and related matters, and I took it on notice on 28 November. Perhaps it would be better, Mr Speaker, if I sought leave to incorporate this answer in *Hansard* as well. It is quite lengthy.

Leave granted.

Document incorporated at Appendix 3.

SUBORDINATE LEGISLATION AND COMMENCEMENT PROVISIONS
Papers

MR BERRY (Deputy Chief Minister): Pursuant to section 6 of the Subordinate Laws Act 1989, I present subordinate legislation in accordance with the schedule of gazettal notices for determinations, revocation, and a declaration of approved manufacturer, as follows:

Liquor Act - Determination of fees - No. 102 of 1991 (S141, dated 2 December 1991). No. 103 of 1991 (S142, dated 2 December 1991).
Motor Omnibus Services Act - Revocation and determination of charges - No. 101 of 1991 (S137, dated 27 November 1991).
Weapons Regulations - Declaration of Approved Manufacturer of Darts (G47, dated 27 November 1991).

PAPER

MR BERRY (Deputy Chief Minister): Mr Speaker, I present the final page of the explanatory memorandum to the Air Pollution (Amendment) Bill 1991, which was accidentally not tabled previously.

MATTER OF PUBLIC IMPORTANCE

MR SPEAKER: I have received a letter from Mr Collaery proposing that a matter of public importance be submitted to the Assembly for discussion. However, subsequent to that receipt I have now received another letter that states:

> In view of the Chief Minister's letter, I withdraw my request that there be a discussion of a matter of public importance today.

It was signed "Bernard Collaery".

PLANNING, DEVELOPMENT AND INFRASTRUCTURE - STANDING COMMITTEE
Statement by Chairman

MR KAINE (Leader of the Opposition): Mr Speaker, I seek leave to make a statement regarding the referral to the Standing Committee on Planning, Development and Infrastructure of the draft variations to the Territory Plan proposed for Griffith, section 96, block 1, and for Forrest, section 24, blocks 4 and 5, and to table my statement and correspondence relevant to that matter.

Leave granted.

MR KAINE: Mr Speaker, as members will be aware, a motion was passed in the Assembly on 27 November 1991 that referred the proposed variations to the Territory Plan for Griffith, section 96, block 1, and Forrest, section 24, blocks 4 and 5, to the Planning, Development and Infrastructure Committee for inquiry and report. These two variations are related to the proposed redevelopment of the Capitol Cinema in Manuka. That motion, as passed in the Assembly, stipulated no reporting date. However, in a letter that I received from the Planning Minister later on the day on which the motion was passed - that was Wednesday, 27 November 1991 - the committee was informed that:

> It will be necessary ... to examine the variation(s) and report to the Executive by 1 December.

The imposition of a Sunday, 1 December, reporting date meant that the Government was requiring the committee to complete in one working day an inquiry and deliberations on a complex planning variation that would normally require weeks, at least, to finalise.

The proposed variations were referred to the committee by the Minister purportedly under the provisions of the Interim Planning (Amendment) Bill (No. 2) 1991. This Bill has not yet been enacted and is, of course, irrelevant. The Minister was obviously aware of this, because on Tuesday, 26 November, he presented six other variations to the Assembly without referral to the committee. For some reason, only one of the seven variations to arise since the passage of the Interim Planning (Amendment) Bill, the Manuka proposal, has been referred to the Planning Committee for inquiry and report. One has to ask, I think, why this has been done.

Clearly this fact, combined with the imposition of one working day to complete the inquiry, suggests that the Minister is not taking the committee inquiry process seriously and has a reason, not declared, for attempting to take this course of action.

The committee, of course, will comply with the requirements of the Interim Planning (Amendment) Bill when it comes into force. Until it does, however, I believe that it is incumbent on the Government to be consistent with past approaches to dealing with planning variations.

Under existing arrangements it is the responsibility of the Government, and the Planning Minister in particular, to deal with the proposed planning variations for Griffith, section 96, block 1, and Forrest, section 24, blocks 4 and 5. The Government should make that decision without further delay. It has the necessary input from the

Territory Planning Authority to allow it to do so. The attempt to pass the decision to the Planning Committee appears, on the face of it, to be merely a ploy to duck the decision. The committee rejects this approach.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning), by leave: I regret that we gave that committee, sound and efficient as it is, just one working day to do its task. I confess that I had not looked closely enough at that letter and did not check carefully to see just what would have been the best day. So, that aside, let me respond.

Mr Kaine said that I was not taking seriously the proposals and the working of the committee system. Well, that is just what I was doing. Mr Jensen's amendment, supported by a majority in this Assembly, imposed quite arduous new conditions on the way that draft variations are to be processed. It is true, as Mr Kaine says, that that Bill has not yet been enacted; but in anticipation of a fairly rapid enactment of it - it was my understanding that it does not take very long - I was seeking at that time, Mr Kaine, to respond to the spirit of that amendment and to observe the intention of the Assembly. Accordingly, I dispatched no small number of draft variations to that committee.

I believe that I did that in the right spirit. I believe that it was the proper thing to do. As it turns out, that Bill will not be enacted until close to the end of the life of this Assembly, and that is fine.

Mr Kaine asked me to be consistent with past practices. I am quite happy to be so. If the draft variations that I presented to them are to proceed through this house with that consistency, then I am quite pleased. I think that we would be in deep trouble if all or any number of those draft variations were to be delayed by an unexpected and unplanned interruption in the procedures.

The Government had moved in the full expectation that all those variations would be completed in the life of this Assembly. The interruption presented grave troubles to us, hence my referral of them to Mr Kaine and his committee. I hope that we can proceed to get them through the Assembly, because that is the important thing.

HEALTH BUDGET - MONTHLY REPORTS
Amendment of Resolution

MR BERRY (Minister for Health and Minister for Sport) (3.10): I seek leave to move a motion in relation to the resolution of the Assembly of 20 November 1991. I have circulated some information in relation to that matter.

Mr Humphries: You have not circulated the motion.

MR BERRY: It is on the bottom.

Leave granted.

MR BERRY: I move:

> That the resolution of the Assembly of 20 November 1991 relating to Ministerial responsibility be amended by omitting all words after "questions".

Members will recall the lively debate which took place in relation to this matter and how, at the time, I protested about the course which members decided upon. Subsequent to the decision of the Assembly, I have discussed the matter with Mr Service. It became clear to me that, to ensure that the relevant information was procured for the Assembly, a direction pursuant to subsection 6(3) of the Health Services Act would be required. That direction was issued.

As a result of that direction, the ACT Board of Health responded as one would expect them to, and they provided the figures. They responded - I quote from the letter from Mr Service which has been circulated to members - and expressed "dismay and astonishment at the debate in the Legislative Assembly, which has led to this Direction".

Mr Service no doubt would recall Mr Humphries' speech in December, I think it was, of 1990, where he acknowledged the need to keep government at arm's length from management in the establishment of that board. I suspect that Mr Service was suitably frustrated then to see that Mr Humphries would have adopted a different view in relation to this matter.

The board, as indicated in the letter which I have circulated, has the highest respect for this institution, and it will continue to have that respect. But they feel that they are being frustrated, it seems, and I am concerned about some mumblings about resignation which I think would be most unhelpful at a critical time in the development of health and hospital services in the ACT. I have raised that issue before. It is not an issue that one raises to warn members or to threaten members with; it is a matter of reality on which some members, or many members, are extremely concerned about what they feel is undue interference in the management processes.

Mr Service accurately recalls history when he talks about the Assembly legislating to establish the board and give it the powers under the Health Services Act which the board, of course, feels competent to deliver on; but they now feel that to call on them every four or five weeks to produce information that may be the subject of "acrimonious and politicised debate" is something which rightly concerns them.

They say, and I agree with them, that it is close to unique in the Westminster style of government. It is certainly unique in the ACT. There is no other institution in the ACT Government area that is required to report to this Assembly in this way. Nobody would argue about the need for accountability to the Assembly and so on. Of course, the board readily accepts that accountability.

We all know the grilling that we get each year when it comes to the Estimates Committee. A lot of carefully considered questions and a lot of carefully considered answers pass between the parties to that committee. Oftentimes the questions do not please the people who are required to answer them, and it is often the case that the answers do not satisfy the people who have asked the questions. But thems the breaks in politics. You cannot write the answers yourself. You just have to cop what is going and interrogate people to the fullest extent possible.

Mr Humphries seeks to make a meal of not being able to get the answers that he can make most political use of. Well, he can make a meal of it. He might be able to rattle up the numbers, but nothing can change the fact that he gets answers which are appropriate to the circumstances. What has happened in this case is that a board with heavy statutory responsibilities will be diverted from its primary focus of health care to financial reporting, and I do not think that that will be very helpful in the scheme of things in our health and hospital system.

I have developed a pretty good relationship with the board. That is acknowledged by Mr Service. But I think we also have to ensure that the Legislative Assembly has a good relationship with the board, because it created it. It is important that it value the service which is provided by the board at no cost because of the decision of the former Government.

The chairman of the board has asked me to request members to rescind that motion because it believes that it can better manage its responsibilities without that sort of level of intervention. The purpose of this motion is to bring to members the request of the chairman. I would hope that the debate is not too acrimonious. Nevertheless, it is an issue of concern to the Government that the board be allowed to get on with its job.

We have provided the figures over three months, which should indicate to members that for the first time - I repeat, for the first time - the board can show that it is on top of the issues. This has never occurred in the past. It is an unprecedented provision of information which has not been available to members in this house.

I have to take some credit for that because it was Labor who first uncovered the difficulties in health financial affairs, and I am happy to say that it was a Labor

government that started to get its information through more clearly. We have a long way to go. I think Health still has some difficulty in the financial area. It no doubt has some difficulties in the service area because of some of the criticisms which are levelled at it.

That is partly, probably predominantly, due to the significant restructuring of the hospital system which is occurring at this very moment. I will not go into who should take the credit for the goods and bads of that. The board has a difficult job in front of it. If members could be kind enough to accept the views of the chairman of the board, I think it would help the board get on with its job. I hope that members will do so.

MR HUMPHRIES (3.18): Mr Speaker, I think we are moving into a debate about the substantive motion rather than the suspension of standing orders. I am quite prepared to accept the suspension of standing orders. I think we should get on with the debate rather than have this - - -

MR SPEAKER: Order! Mr Humphries, you have misunderstood. Leave was granted. There is not a motion for the suspension of standing orders. This is the major debate.

MR HUMPHRIES: I beg your pardon, Mr Speaker. In that case I will make substantive comments on what Mr Berry has said. No, for my part I cannot accept the reasons that Mr Berry gives for wanting to - - -

Mr Berry: Mr Service gives.

MR HUMPHRIES: Well, that may be. It may be that they are Mr Service's views; I do not know. I certainly indicate that, as far as I am concerned, Mr Speaker, I am not prepared to accept the Minister's view that there ought to be a suspension of the program, that he himself instituted, of making available, on a monthly basis, figures dealing with the Board of Health's finances in the year to date.

I remind Mr Berry of his press release of 21 June - one of these crowing press releases that trumpet a new era in reform of health services. He says here:

> I have been assured that, from 1 July 1991, expanded commitment recording will be introduced and full financial reports will be circulated on a regular basis to program managers throughout the Board. Financial statements will be prepared in a timely manner on an accrual basis ...

He also indicated - not in this release, but elsewhere - that he would be receiving and making available to members of the Assembly, and presumably to the public, monthly financial statements - - -

Mr Berry: That is not accurate.

MR HUMPHRIES: Well, Mr Berry certainly indicated somewhere - I cannot recall whether it was in a press release or to the Estimates Committee - that he would make available information about the monthly statements.

Mr Berry: For September and August.

MR HUMPHRIES: No, it was not just for September. It was two months that we received, in any case, Mr Berry, not just one. The fact is that Mr Berry ran around saying, "Here we are. What good boys we have been; we have produced these monthly statements; we have proved that we are really an open and consultative government". However, the policy then became uncomfortable. He decided, after all, "Well, we are not really very open and consultative. We have proved our point by showing them one monthly account or two monthly accounts. We will put them back in the desk drawer and make sure that no-one else sees them from this point on". That is an unacceptable point of view, Mr Speaker, and I, for one, can indicate that I will not be supporting Mr Berry's motion.

It is clear to me, and I am sure that it is clear to everybody else listening to this debate, that the Minister well and truly sees what is coming over the horizon, and that is a further budget problem, a further budget blow-out. Mr Berry sort of smiles at that. He thinks that is amusing. I do not think he will have that smile on his face when those facts become evident. But the fact of life is that everybody can see that coming. Many people within the health system have warned of that.

The Minister himself has not been prepared to make any guarantee to the Assembly or to the public about the board's ability to keep within the very tight budget he has given it. What is therefore evident, Mr Speaker, is that the Minister is well aware of the possibility of a budget blow-out. It goes beyond that, Mr Speaker. Mr Berry knows that he is facing a budget problem, a very serious budget problem, and he wants to batten down the hatches and prevent members of this Assembly and of the general public knowing the full extent of the problem. That is what it amounts to.

Mr Speaker, I am not prepared to accept that. Health has exhibited many problems in the past. Mr Berry is well aware of those, having been Minister at the time of one of those sets of problems. I am well aware of them, for the same reason. I believe that this Assembly owes it to the community of the ACT to keep tabs on what is happening in the hospital budget and in the health budget generally. It is not that there is any particular onus to be placed on the health budget or any particular onus to be placed on the Board of Health. I believe, Mr Speaker, that what we have here is simply the same measure of accountability that any parliament anywhere in the country would expect of any statutory body such as the Board of Health.

Let me remind the Minister of the question he asked of me, as Minister for Health, in February of this year - on 19 February, to be precise. He asked this question:

> Will the Minister assure the Assembly that the ACT hospital system is operating within budget?

Is there a familiar ring about that question? I think there is. He continued:

> If it is not, what is the expenditure difference between the budget and actual costs, and what are the current full year projections?

What are the current full year projections? Mr Speaker, is this not the sort of question that we have been asking of the Minister over the last two or three months and receiving no answer to? We have been receiving answers such as, "Don't you worry about that. This is within the competence of the board to take care of. We will manage it somehow. That is up to the board. Sit down; no more questions. Cut off question time at 1 minute past 3". That is the kind of response that we have been receiving from this Minister. It is outrageous, because it is at variance with his own policy, as opposition spokesman on health, only six or eight months ago.

Another question he asked of me - on the same day, in fact - was this:

> I have a further question ... Because of the level of interest in health matters, will the Minister give a report on the next day of sitting on the budget situation within our hospital system?

Now, the question has to be asked, Mr Speaker: If Mr Berry can ask for a statement, a report, on the budget situation within the hospital system, why cannot we? What is the difference between Mr Berry's request of 19 February and the request that we are making today in this Assembly for Mr Berry to honour his own undertaking to this Assembly to provide a monthly report? I will look forward to the Minister's explanation as to why a request made by him ought to be honoured; but one made by us, on this side of the chamber, ought not. It is simply incongruous and simply cannot be accepted by this Assembly.

We ask Mr Berry to provide the same level of accountability which any government department should be providing. Admittedly, other government departments do not provide monthly statements; but, then again, other government departments can, through their Minister, be asked to supply information about what is happening within their areas. The Minister is not just saying, "I do not wish to give you information contained in this particular document called the monthly financial statement of the Board of Health".

He is saying, "I do not wish to provide any information about what is going on in Health for the life of this Assembly". That is what he is saying: "I do not wish to provide any of the information which is contained in that document".

I do not care whether we have a piece of paper headed "Financial Performance Report for the Month Ended ...", whatever it might be. I do not care if we do not have that, Mr Speaker. I can quite happily live without it. But I do demand the same level of information that the Minister himself asked for in opposition, and which any opposition anywhere in this country would expect of a government. That is all we ask.

It is made particularly difficult in this case, I also suggest, because this Minister is completely unable or unwilling to provide answers to other questions asked of him by members of this Assembly about the hospital budget.

Mr Berry: That is not true.

MR HUMPHRIES: Mr Berry says, "That is not true". Let us look at today's evidence, for example. I asked the Minister a fairly simple question: What timetable is he or the board working to in shedding staff whose shedding he has predicated already to the community - that is, 275 positions in this financial year? Well, he indicated, I think, probably something of an answer to that question: That he did not have a timetable because he was negotiating with the unions; there was no particular timetable; we would see what happens.

But the other part of the question, which he always ignores - he never answers any question with more than one part to it - was this: What number of full year equivalent staff need to be shed this year to achieve the Government's savings targets? In other words, if you make those full year equivalent staff, how many of those do you need to shed to achieve your savings targets? Obviously, if you shed 275 staff, for example, on 2 July, you achieve the equivalent of 275 full year positions for that financial year - a very large saving. On the other hand, if you shed 275 staff on 29 June, at the end of the financial year, you make virtually no saving.

The question I was asking the Minister is: What level of saving have you targeted? What number of full year equivalent positions do you have to achieve in this financial year to meet your target? That is a very simple and straightforward question. The Minister declined to answer the question.

Mr Berry: From which date? You did not put that in.

MR HUMPHRIES: Today. I asked the question today.

Mr Berry: From which date, though?

MR HUMPHRIES: Any date would do, Mr Berry. Mr Berry says that I did not specify which date. He has not provided any information on any basis so far. He asked what positions I was talking about before, what classifications. I do not care what classifications; any classification will do. Any information from this Minister would be welcome. Mr Stefaniak asked a question about business rules. Mr Berry agreed to supply them. Very good. We are very pleased about that. He could not do that at the time, of course; but, okay, he agreed to supply them.

He was further asked: What increased expenditure, such as wage increases, will the board not be held accountable for? This is a question of expenditure like the superannuation part of the board's responsibility in the budget, salary increases determined by industrial commissions, et cetera. What is the board accountable for?

Mr Berry: I agreed to provide the business rules.

MR HUMPHRIES: No, no. The Minister agreed to provide the business rules, not to answer the second part of the question. There was no attempt to supply answers to the second part of the question.

Mrs Nolan asked a question: How long does a person have to be kept waiting in casualty before they get admitted to a bed, ideally? Mr Berry has taken opportunities in the past, on almost every question on health he has received, to digress into platitudes about what the Government sees as desirable in health. On this occasion he did not care to offer any opinion at all about people having to wait five, six or seven hours before getting a bed in our public hospital system, apparently because he realises that he is increasingly unable to provide any assurances to the people of Canberra about those very sorts of issues. Mr Speaker, that level of "I don't care" response by this Minister, by this Government, is unacceptable to the Assembly. I believe that I speak for the Assembly when I say that that kind of cavalier, contemptuous attitude on the part of this Minister is unacceptable.

Mr Berry agreed to provide that information, as requested by members of the Assembly, in order to avoid a motion of censure of him a week or so ago. He was desperate to avoid being censured by the Assembly; he agreed to provide the information. Now I am saying to him that he had better be as good as his word. He has offered to provide the information; he had better do so.

I have a fear, Mr Speaker, that we are being softened up in this debate for the Minister to not supply the information, irrespective of what happens in this debate. It is my fear that what the Minister is saying is, "I do not believe that the information should any longer be provided. I invite you, the Assembly, to rescind your motion; but, if you do not, I am going to ignore it anyway. I am going to ignore

the decision that you have made and not supply the monthly updates, because that is easier, given the budget problems we can see coming down the track. It is easier to do that than to take the step of agreeing to this motion or of accepting the motion's intent". Mr Speaker, I think that attitude on the part of the Minister is contemptible and should be rejected by the Assembly.

Mr Speaker, I will not comment in detail on the letter provided by the chairman of the board, but I believe that that issue has to be taken with some of the comments that he makes. He says that he believes that the board will not operate properly if it has to release financial statements on a monthly basis to members of the Assembly and hence to members of the public. That, it seems to me, is a view which we should not encourage in officers who administer or preside over statutory authorities in the ACT. Accountability to the Assembly is a fundamentally important part of the Westminster system and should not be lightly discarded by this or any other government. He says:

> Continuous diversion of its staff -

that is, the staff of the board -

> from their vital management tasks will simply lead to a recurrence of the difficulties of the past, which arose before the Board was created.

I want to make it quite clear, Mr Speaker - perhaps Mr Service misunderstands - that the Assembly, in its motion of last week, or 20 November, was not asking for any greater level of work or accountability on the part of the board than it currently already delivers to the Minister for Health.

We were not asking for extra work. We were not asking for extra paperwork to be produced, extra figures to be made available, extra information to be supplied. None of that was being sought by the Assembly. We were simply asking, in fact, that the Minister hand on to the Assembly the information he receives from the board. That cannot entail, surely, Mr Speaker, a single iota of additional work on the part of the board or its staff. It surely cannot entail any extra work in doing that. If that is the case, it seems to me that it would be extremely easy for the Minister to make those figures available without compromising the role of the board.

Mr Speaker, I made it quite clear that I consider that this motion of Mr Berry's exhibits contempt for the Assembly. I believe that it is appropriate for us to reject Mr Berry's motion because I believe that this area, of all areas of the Government, must be subject to very close scrutiny by this Assembly. I am not out to damage or harm the way in which the board administers the health budget in the ACT, but I believe that we have the same right to ask the same questions that Mr Berry asked when he was in opposition.

MR KAINE (Leader of the Opposition) (3.33): I think that I must support Mr Humphries in his response to this motion. In fact, I am quite astonished that Mr Berry would seriously put it to the Assembly that he should be let off the hook on this matter. I am quite fascinated that he goes to the board and asks the chairman of the board to give him a letter to back him up in this matter.

Interestingly enough, the chairman of the board, in his letter, makes some points which I, and I am sure Mr Humphries, totally agree with. He notes in the middle of the body of his letter:

> The Board well understands the need for accountability to the Assembly, the Government and the citizens. It readily accepts these obligations, all of which are properly provided for by law.

We in the Liberal Opposition totally agree with that. We have no difficulty at all with it. We also agree with the second paragraph, in which the chairman expresses the board's "dismay and astonishment at the debate in the Legislative Assembly, which has led to this direction". So were we dismayed and astonished. If the Minister had complied with the normal accountability under the Westminster system, had provided information properly asked for in question time and in the Estimates Committee, and had properly fronted up to his - - -

Mr Berry: I take a point of order, Mr Speaker. The Leader of the Opposition imputes that I had not responded in question time in accordance with the standing orders. If he wishes to move a substantive motion in relation to the matter, he can deal with it; but he cannot make those sorts of imputations unless he raises them at the time.

MR SPEAKER: Thank you, Mr Berry.

MR KAINE: Mr Speaker, I would submit that I have been raising these questions substantively ever since Mr Berry has been the Minister.

Mr Berry: It is all a red herring.

MR KAINE: It is not a red herring at all. It was Mr Berry's absolute refusal to answer questions and provide information to this Assembly - - -

Mr Berry: Which question?

MR KAINE: A whole range of questions - bed numbers; staff reductions; expenditure patterns; are you overexpended or underexpended? You would not answer the questions. It was because of that that we had the debate which led to this direction. I agree entirely with the board; I am dismayed and astonished - - -

MR SPEAKER: Mr Kaine, I thought you were addressing the point of order. I dare say that you have now finished addressing the point of order.

MR KAINE: I did not even know that he had taken a point of order. I thought he was just lodging an objection.

MR SPEAKER: No, he normally sits down when he does that. Mr Berry, I do not think that is a valid point of order under the circumstances being debated at the moment.

MR KAINE: I am sorry if I confused you, Mr Speaker. I was confused myself.

MR SPEAKER: No, I was not confused.

MR KAINE: The fact is that the Minister brought this upon himself. There was no imputation of any failure on the part of the board. That is not what our motion was about. Our motion was about the Minister. How he gets the information from the board is for him to determine.

I am quite astonished, in fact, that the board should take offence, having been given, through the appropriation processes of this Assembly, over $250m of public money. I am astonished that the board would feel that it ought not be asked to account once in a while for what it does with it, irrespective of what the ministerial responsibility is.

I really have to take issue on one point. It is the only point in the letter from the chairman of the board that I do have to take issue with. He says:

> ... a process which requires that every month there is external political scrutiny of the Board's management is an absurdity.

That statement in itself is an absurdity. Such functions, with the amount of money we are talking about, have to be under political scrutiny. He then says:

> Our focus will have been turned from health care to finance reporting.

The focus of the board had better be on both health care and financial reporting at one and the same time; otherwise they are failing in their duty, in my view. To assert that by forcing them to move from one to the other we are somehow asking them to divert themselves from their primary function simply is not true. Health care and financial reporting are both primary functions, and they have an obligation to both.

I am a bit dismayed that the Minister has sought to cover himself by asking the chairman of the board to take a particular view on this. I think that is putting the chairman of the board in a political situation which he

should not be in. The Minister should never have put himself in the position where the chairman of the board has to come to his rescue. If he had been open and responsive to the requests of the members of this Assembly, the situation would never have arisen in the first place. It is simply not good enough for the Minister to say, "The board is responsible and I am not going to answer your questions". That is not what ministerial accountability under the Westminster system is about. He will not get away with it; he has not got away with it.

It is a matter of some concern to me that the Assembly has to pass a motion that requires the Minister to provide financial information on a monthly basis. It is a reflection on the Minister that such a motion had to be passed by the Assembly in the first place. Quite frankly, it is a disgrace. If I had some sort of an assurance from the Minister that he would be properly accountable to this Assembly, which he has not proven up until now, I for one would be only too happy to rescind the motion; but I know that he will not give that assurance. He has given no indication that he will do so.

Under those conditions I have to say to the Minister that it is regrettable that he has put himself in this position. It is regrettable that the members of the board feel threatened because the members of this Assembly exercise their right and their responsibility as elected members to find out what is going on with that quarter of a billion dollars that is being used out there to provide health services. I am afraid, regrettable and all as it is, that there appears to be no alternative but for the Assembly to leave that motion on the books.

MR MOORE (3.40): Mr Speaker, I think that in principle this really boils down to the business about open government. I understand and must say that I sympathise with the position of the new Board of Health. I can understand exactly how they are feeling. They have been charged with a responsibility. That responsibility was given to them only a very short time ago and they are clearly working extremely hard to fulfil their obligations with reference to that legislation that we passed in this Assembly not so long ago.

However, I cannot quite comprehend why the Board of Health are concerned about simply letting people know what is going on. I understand their concern when they say that they have been singled out. That is true; they have been singled out. It is not a reflection on the board itself or our attitude to the board; it is, I think, a reflection of how a good manager would operate.

What a good manager would do in a business when he or she knew that a particular section had had a series of budget blow-outs is this: He or she would say to subordinates, perhaps new subordinates, "I want you to take over this

section and fix it up, but let me know how things are going. I want to be sure that we are not going to have a further budget blow-out; so I want to know how things are going on a month-by-month basis, because the clear experience over the last 10 years is that there have been problems".

The manager would then check how well that subordinate is doing. The subordinate might say, "I have this strategy in place and I am taking this action. This month it would appear that things are not going to be sorted out, but I foresee that this action and that action will rectify it". For the manager just to leave it and say, "Okay, we have had lots of blow-outs; we have a new person doing it; we are going to leave it entirely to him, and we are not going to worry about it any more", would be an abnegation of responsibility.

It would seem that the attitude of Mr Service and the Board of Health is that they are prepared to provide those figures to their manager, namely, the Minister for Health, Mr Berry. That may well be acceptable when there is a majority government. But, in fact, there is a further level of administration in this Territory while we have a minority government. That further level, the Assembly, can order a Minister - it has ordered a Minister, and that Minister has accepted the order - to provide those figures to give an insight. In effect, what it means is that those figures are made public.

People in this Territory and in this parliament are not stupid. We can understand, when there is a minor variation to the figures that looks bad in a particular month, that they may well require an adjustment and there may well be some strategies going out to improve those. We can comprehend that. We can deal with that. I think it is fair to say that they can be reported fairly. I think it is reasonable to say that the reports on health that have gone on over the last 12 months, both while Mr Humphries was Minister and while Mr Berry has been Minister, have been consistent and have been fair.

I am sure that there have been times when people have felt that they would have liked the reports to have gone a very different way. But, if you try to take an overview, I think you will find that, by and large, there has been fair, balanced reporting of the issue of health in the ACT. It is a major election issue. It is a major issue for the people of Canberra, and the people of Canberra are entitled to know. That is the concept of open government.

Take another area where we may feel that there is some risk. Perhaps it might be Mr Connolly's Department of Urban Services. I draw it out of the hat rather than picking on it.

Mr Connolly: It is well managed.

MR MOORE: He assures me that it is well managed and that may well be the case. If we feel that there is another area, whether this year or next year, where the budget is not being handled appropriately, then I would urge members of the Assembly to call for monthly reports so that we can see what is going on and so that we understand what is going on. It is not just an entitlement; it is an obligation on behalf of the people of the Territory.

When a health budget blows out, or any other budget blows out, the effect will be felt in the next budget. The people will be told, "Either we are going to cut a particular service or we are going to have to raise your rates or taxes in some way". So, it is entirely appropriate for this Assembly to request those figures.

I do not perceive it as an interference with management. The Assembly has not attempted to force a strategy on the Board of Health; we have simply asked for information at a very broad level. Granted, it is at a lower level or a narrower level, if you like, than has been the case with most departments, when we accept an annual report. But there is a good reason, a very good reason, why that would be in the case of health.

I can understand why it is that those voluntary members of the Board of Health feel jaded at what they may perceive as interference by the Assembly, but I would urge them to take this message: It is not interference; it is simply open government; it is simply about Assembly members knowing what is going on and, consequently, members of the public knowing and understanding what is going on.

I would expect that the board, when it presents its figures to the Minister, should they not be as positive a set of figures as we received last time, would present what they see as their strategy, because there is no way that that board, made up of very responsible people, is not going to have a strategy to look after any problems that appear to arise. That is the nature of the business. So, members of the board ought not take this as an affront, and I am sorry that they did. I have spoken to a number of members of that board and I understand how they are feeling. However, I think that they also ought to respect the fact that we have a responsibility as well, and that is a responsibility that I certainly will not move away from.

I will not be supporting the motion put by the Minister today. I believe that it is appropriate that the board continue to provide those figures, that it continue to keep the people of Canberra informed. Any other department in a similar financial position can also expect to be monitored. At the same time, I think it is important that we congratulate the Board of Health for their good work and that we encourage them to continue to do it in an open way, as they are doing in providing these figures not just to the Minister but to members of this Assembly.

MR BERRY (Minister for Health and Minister for Sport) (3.49), in reply: I think the first thing that we have to reflect on is how this requirement on the Board of Health came about. On 20 November Mr Kaine moved to censure me as the Minister for Health. I read from the motion:

> ... for his persistent behaviour in contempt of the Assembly and its committees, exemplified in his obstinate refusal to respond to legitimate questions ...

The problem with that was that that was not the view of the rest of the members. Whilst it might have been politically okay for Mr Kaine to take that line and go for the Minister for Health for political purposes, the problem with it all was that it was wide of the mark. The Liberals have always got proper answers to the questions that I have been asked, but not answers that they like. They are politically biased answers. There is no question about that. Of course, they have been trying to provide a red herring on the issue of answers to questions ever since; but it is not working, because people are a wake-up.

Take your own answers to questions, Mr Humphries. You specifically referred to a question which called on you to report on the next sitting day on budget matters within Health, and I think I recall you saying, "Oh, it is too much trouble, too much work. I am not going to report".

Mr Humphries: Was it a fair question?

MR BERRY: Of course it was a fair question. But you just said no, and that was the answer.

The real issue is that the circumstances when the Liberal Minister had control of Health were quite different. He did not know what was going on in Health. Immediately we came to government, we required the board to report to me, the Minister, on its progress. As an indication of improvements in Health, I showed those figures to the community to show that the board was beginning to make financial reports to the responsible Minister, which it had not done in the past; neither had it been required to. Subsequently, I provided figures for the months of August and, reluctantly, for September to the Estimates Committee. That is an appropriate course. The Estimates Committee can examine those things and tear them apart in the budget context.

But what has happened now, because of this motion, is that the board has been made a scapegoat as a result of the churlishness of the Liberals on the issue of health. What happened was that Mr Moore moved an amendment which, admittedly, prevented the censure motion in relation to my behaviour from being carried - unjustifiably, in my view. But it made the Board of Health the scapegoat in all of this. I think that is what Mr Service has rightly recognised. The board have, indeed, been singled out.

It is as a result of Mr Service's request that I have placed this motion before you, not for any reasons of my own. I do not mind providing the figures per se, but the board have indicated that it disturbs them greatly. They have set out their position very clearly and I am prepared to accept that at face value. Mr Kaine does not seem to be prepared to do the same sort of thing.

Mr Humphries raises the issue of questions. On this issue of business rules, wherein he referred to a question raised by Mr Stefaniak, the business rules will give Mr Stefaniak all of the answers. He need not be concerned about it. I will get them to him, as I have indicated. They will give him all of the answers. Mr Kaine said that the Minister asked the chairman of the board to get him off the hook with this letter. That is completely untrue. This is an initiative of the chairman. I did not request him to provide this letter. It is something which he has chosen to supply on his own initiative.

I will say that I noticed very early in the piece that the board were very reluctant on this score and, rather than put them into a position of volunteering information that they did not want to give, I made up my mind that the best way to proceed with this was to order the board, in accordance with the legislation, to provide the information. They have, in accordance with their duty, provided that information and set out all of the reasons why it should not be done.

It is a great pity, Mr Speaker, that the members of this Assembly have not been able to accept those reasons. I think they are reasonable, on the face of it, and I am surprised, I must say, that members would not see the very good management reasons why the board does not want to be placed in focus in the way that it alleges that it will be.

Mr Speaker, all politics aside, I think that what the chairman of the board has requested is reasonable. I think that for such a new board to be placed under such pressure is an unreasonable requirement of this Assembly. The politics are a different matter. It is all right to come in here moving censure motions against various Ministers; but, when the censure motion is mitigated by a motion which affects the management prerogative of the board, then I think it has all gone awry; it is off the rails. I believe very sincerely, Mr Speaker, that members of the Liberal Party and other parties in this Assembly should agree with the request of the board chairman.

I am not going to hide behind the board chairman. The buck stops in my office. There is no question about that. I have been provided with figures willingly by the board from the date that I requested them, and I will continue to be provided with them willingly; but, as far as this Assembly is concerned, I think the board is right in strongly protesting at the level of interference which it, among all of the government instrumentalities, has to suffer.

It is all right for Mr Moore to say, "Oh, this is open government". It is not open government; this is ridiculous. You just cannot interfere at this level. It is an issue of letting the board get on with the job. If the health budget blows out, I accept the responsibility for that. Mr Humphries had to cop the responsibility for that; but, most importantly, what he had to cop was the responsibility for not knowing about it. I have made sure that I will know what is happening in the health budget. If anything goes wrong with it, I will make sure that I cop the responsibility for it; but I will know about it.

Mr Humphries: You sure will. We can guarantee that. That is a promise.

MR BERRY: That is right, but I will know about it. I will know from one day to the next. You did not even know that something was wrong; that was your difficulty. The Liberals did not know that the financial arrangements in the hospital system were off the rails, until Labor pointed it out to them. Then they conveniently forgot that they had been given the information just after they took office in 1989 and did nothing about it. That is what the hue and cry was about.

Mr Humphries: Mr Speaker, I take a point of order. Mr Berry has continuously made that allegation and continuously been asked to withdraw it on the basis that it is not true, given what he himself said to the Estimates Committee. I ask him to withdraw the allegation for the last time.

MR BERRY: Mr Speaker, Mr Humphries seems a bit peeved by the way it is going. I will say to Mr Humphries that I withdraw what I said previously, so that he can settle down and relax. Mr Humphries received some information which flowed over from the Labor Government. He did nothing, I think, until the Enfield report and, of course, that is why the health budget fell apart. We have set a tight budget frame - there is no question about that - and the job for the board is difficult, but we are keeping our finger on the pulse in relation to the board's performance. That is something the former Government did not do.

I cannot guarantee that nothing will go wrong, because Health has a long history of not being able to deliver in all respects; but I can say to you this much: The board have given me an undertaking that they will live within budget. I know that they are working at the very best rate that they can muster, and I am sure that they will do everything to deliver their promise. At the same time I will say that we will know what is going on with the health budget, whereas the former Government did not.

I go back to the request by the chairman of the board. I ask for no sympathy from members opposite for me. As I have said, the buck stops with me and I do not expect sympathy. If I were getting some, I would think there was

something wrong. But, in relation to the board, I expect some sympathy for the position which has been put to the Assembly by Mr Service, and I hope that members will support this motion to amend the motion of 20 November 1991. I think it will be regrettable if they do not.

Question put:

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

The Assembly voted -

AYES, 7	*NOES, 9*
Mr Berry	Mr Collaery
Mr Connolly	Mr Humphries
Mr Duby	Mr Jensen
Ms Follett	Mr Kaine
Mrs Grassby	Dr Kinloch
Ms Maher	Mr Moore
Mr Wood	Mrs Nolan
	Mr Prowse
	Mr Stefaniak

Question so resolved in the negative.

MR HUMPHRIES: Mr Speaker, under standing order 46 I seek leave to make a personal explanation.

MR SPEAKER: Do you claim to have been misrepresented?

MR HUMPHRIES: Yes, I do, Mr Speaker.

MR SPEAKER: Please proceed.

MR HUMPHRIES: Mr Speaker, Mr Berry, in the course of his summing-up remarks - remarks that other members do not have a chance to respond to - said that the Alliance Government, and I in particular, had failed to act on the recommendations brought down in late 1989 in the Treasury report on hospital finances. I want to put on record, Mr Speaker, that the Alliance Government acted on every single one of those recommendations, with, I think, one exception. I forget what the exception was, but it was a very minor exception and it was not acted upon for good reason. So, let the record show that Mr Berry is wrong when he asserts that no action was taken on those recommendations. Every single one of relevance was acted upon by the Alliance Government. I also point out, Mr Speaker, that - - -

Mr Berry: You did nothing.

MR HUMPHRIES: That is not true.

Mr Berry: It is absolutely true.

MR SPEAKER: Order!

MR HUMPHRIES: Mr Berry repeats his assertion. I say again that the Alliance Government acted on every single one of those recommendations. The Labor Opposition at the time did not ask a single question, throughout the life of the Alliance Government, until the budget problems of 1991 emerged and budget initiatives were taken in response to their budget blow-out. The fact of life, Mr Speaker, is that Mr Berry was surprised by the budget blow-out, as I was.

LAND (PLANNING AND ENVIRONMENT) BILL 1991
Detail Stage

Clause 23

Consideration resumed.

MR MOORE (4.06): Mr Speaker, to bring members' minds back to the clause, I remind them that it deals with defined land. Earlier in the debate on this issue, we heard the Leader of the Opposition talking about little gnomes running around providing Mr Jensen with assistance on planning amendments. I suppose that I also had in my mind a picture of the little trolls that support the Liberal Party, but perhaps we should leave that without any further ado.

Mr Kaine: I do not have any backroom boys of that kind.

MR MOORE: Mr Kaine interjects that he does not have any backroom boys, and I do not think it was intended to be a sexist remark. I think it was meant to be as it is, on face value. I have no comment about your backroom women.

Mr Speaker, getting to the issue at hand, I think that one of the most interesting interjections in the earlier debate was an interjection by Mr Kaine when he said, in mirth, "Well, that is all right. We will make Civic defined land". I do not want that to be misconstrued, because it was said as a joke. I am not attempting to misconstrue that. The trouble is that in that piece of mirth there is a high element of truth. There is the power to do just that thing.

Our Planning Authority is not going to do that. There is no doubt in my mind that our Planning Authority would not go ahead and do something along those lines. But I think it is important, when we are dealing with legislation, that we consider whether or not we actually wish to give that power that could be applied to Civic or to greenfields development. It is most appropriate for us to decide whether or not to allow this concept of defined land which takes away appeals and takes from the Canberra community the opportunity to comment.

I think it is particularly important that we concentrate on the area where it is proposed that the concept of defined land be used in the Territory Plan, an area on which most people comment. That will put the matter in the appropriate perspective. I refer to greenfields development. It seems to me that, if a developer can vary the way roads run or where intersections go in relation to hilltops and so forth, it may have a major implication for the environment. By allowing defined land, we are excluding the possibility of citizens raising such issues as the environmental impact of the placement of roads.

One of the most significant factors in new areas is the siting of houses. Siting houses so that they take maximum advantage of the sun will allow us, of course, to preserve our energy resources and will have a major impact on how much we pollute our planet and deplete the ozone layer. This is very closely tied in with our energy resources.

In removing the ability for people to appeal and to comment, we are adding to the continuing problems about open government. If the draft Territory Plan becomes our plan, we will have no long-term strategy for the development of Canberra upon which to test these ideas. I think that is a very important overriding principle that we will have to look at again before we leave this Bill.

MR COLLAERY (4.11): The Rally's view - a view shared by others in the chamber, we hope - is that defined land should be subject to public consultation to a greater extent. Is the concept of defined land consistent with the National Capital Plan and the legislation underpinning it? I give you an example. The National Capital Plan says that local centres shall be developed to satisfy the community's need for convenient shopping and local commercial and community facilities.

Yet there will be no consultation within a defined envelope - as far as we can determine - on the location and layout, for example, of the Gungahlin town centre, if it ever proceeds. We are aware that a consultancy has just been issued to Ray L. Davis and Co., in the sum of $15,000, to look into the marketing of that centre. No-one in the Rally has yet seen the town layout for Gungahlin. We have been up to a ridge with the Conservation Council and looked at the trees, but we have not seen the layout. So, to what extent is this defined land concept consistent with the national capital planning imperatives? We believe that the Minister should respond to that, because we have views about it. We also have views about some other possible conflicts with the National Capital Plan stemming from the Territory Plan, but we will debate them later.

The essential issue has been well traversed by Mr Moore and my colleague Mr Jensen, but a whole range of issues are being defined out of the bounds of public consultation and on the most skeletal criteria attached to the documents relating to draft variations. We see this, for example, in the documents that have been issued already for the suburb of Harrison. There are a number of sweet enjoinders about how planning should be carried out. There are the vaguest sketch plans for some of the layout.

Clearly, the National Capital Plan and the imperatives behind it, particularly the equitable provision concepts for shopping access, are not being complied with through this defined land concept. We believe that the Minister should provide advice to the house today or tomorrow as to whether he has been assured by his legal advisers that the defined land concept is in no way inconsistent with the National Capital Plan, the principles behind it and the legislation underpinning it.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (4.14): Mr Speaker, Mr Collaery needs to be reminded that the National Capital Plan overrides the Territory Plan. There are not any inconsistencies; there cannot be any inconsistencies, because one is subservient to the other. But that apart, there is, I believe, as I have examined this, no inconsistency between the two.

The Rally makes quite a deal about defined land. At the introduction I said that nearly three years ago, when statements from this Assembly were being made by the then Government, there was comment about the way that broad-acre development would be considered. That has been refined through two extensive series of consultations. Arising out of those consultations, it was agreed that this should proceed. It was agreed, obviously, within the Alliance Government that this should proceed in this manner.

Mr Jensen: It does not mean to say that it is perfect.

MR WOOD: Mr Jensen, you had your opportunity some time ago in that Government to make an issue of it, and I understand that you did not. The concept is one which has no small number of safeguards. It is open to consultation. Mr Collaery says that it has been cut out of consultation. That is nonsense, because the broad proposals are available and open to consultation, and ultimately, of course, the plans need to be approved by the Planning Authority and by the Minister.

MR SPEAKER: The question is: That clause 23 be agreed to. Those of that opinion say Aye; to the contrary, No. I think the Noes have it. The question now is: That clause 24 be agreed to.

Mr Jensen: We said no. You put the question that the clause be agreed to. I said no.

Mr Kaine: You were voting on your amendment to the clause, I thought.

Mr Jensen: Were we voting on the amendment or on the clause?

MR SPEAKER: There is no amendment that I am aware of.

Mr Jensen: I raise a point of order, Mr Speaker. My amendment No. 20 is to delete clause 23.

MR SPEAKER: There is no point of order. You vote against the clause, for goodness sake. The question was that the clause be agreed to. I have called it and both sides - - -

Mr Jensen: Hang on! We have not voted on the amendment yet, Mr Speaker.

MR SPEAKER: There is no amendment, Mr Jensen. Read my lips.

Mr Jensen: I moved amendment No. 20 to clause 23, which was to omit the clause, lines 3 to 5.

MR SPEAKER: All that requires is a vote on the clause, not an amendment to omit something, Mr Jensen. We have been doing that all through these Bills. You have just won your case anyway, Mr Jensen; so what are you arguing about?

Mr Jensen: Mr Speaker, this is an important issue. You will have to recall that clause for further consideration.

Mr Wood: On a point of order: We have been debating Mr Jensen's amendment to delete clause 23.

MR SPEAKER: As I said, Mr Wood, what we have been doing all through these Bills is that, if it is just a straight omission or a deletion, we are not moving an amendment. There has been - - -

Mr Wood: Mr Speaker, can I - - -

MR SPEAKER: Order! Mr Wood, you do not have the call. Is it the wish of the Assembly that I put the question again? There being no objection, I shall do so.

Question put:

That the clause be agreed to.

The Assembly voted -

AYES, 13	*NOES, 4*
Mr Berry	Mr Collaery
Mr Connolly	Mr Jensen
Mr Duby	Dr Kinloch
Ms Follett	Mr Moore
Mrs Grassby	
Mr Humphries	
Mr Kaine	
Ms Maher	
Mrs Nolan	
Mr Prowse	
Mr Stefaniak	
Mr Stevenson	
Mr Wood	

Question so resolved in the affirmative.

Clause 24

MR JENSEN (4.22): I move:

Page 13, line 24, add the following subclause:

"(2) The Authority shall:

(a) cause to be published in the *Gazette* by advertising and in a daily newspaper a notice stating that the documents referred to in subsection (1) are available for public inspection, and

(b) by notice in writing served by post on each person who provided written comments concerning the draft variation (being a notice served within seven days after the day on which the draft Plan variation is submitted to the Executive) advise the person that the documents referred to in the subsection (1) are available for inspection.".

Basically, this is a similar process to that which we have already debated; so I will be very brief. I am seeking to put in a new subclause which would require the authority to publish a notice in the *Gazette* by advertising and in a daily newspaper a notice stating that the documents referred to in subsection (1) - that is, documents that have gone to the Executive - are available for public inspection. It would also require that the notice be served on those people who submitted comments.

I think this is important because there can often be quite a long time between when the draft variation is submitted and when the time for comment on the draft variation closes and the actual document is submitted to the Executive. I give as a prime example the recent major draft variation for the Yarralumla Brickworks area. That was tabled and put out for public consultation some time in October or November 1990. As members may recall, it then disappeared off the agenda, except for the odd occasion when it was brought back. Just recently, of course - and it is only just recently - the draft variation was brought down, signed by the Government, by the Executive of the day, and tabled in this Assembly, not quite 12 months after the document was put out to the community for comment.

Many members of the community may have thought that that proposal had gone away and was not being considered by the Government. But, all of a sudden, it popped out of the woodwork again with quite substantial changes - major changes, in fact. I am suggesting that in those circumstances it is quite appropriate for those people who were involved in the original consultation, which may have finished some eight or nine months earlier, to be reminded not only by a notice in the *Gazette* and newspaper but also by a letter to them. The cost of a 43c stamp would seem to me not inappropriate. That is one of the major reasons why we have proposed this additional subclause.

In view of the long period involved, I trust that members will support this proposed new subclause. It will ensure that members of the community who were involved in the process are kept advised. As we have already indicated, it could well be that they are out of town at the time an advertisement appears in the daily newspaper. That is always on the cards, as we know, and not too many people read the *Gazette* avidly. I think it is important for this particular subclause to be carried. I know that the Government, originally, was not going to support this. I hope against hope, I guess, that they have changed their mind.

MR KAINE (Leader of the Opposition) (4.26): I have spoken before against that part of this amendment that is contained in paragraph (b). I do not think it is necessary to write letters to everybody. Of course, Mr Jensen writes it down when he says that it involves only a 43c stamp. It involves a great deal more than that to take on this task. I do not think it is necessary. Therefore, I foreshadow that I will move for the deletion of paragraph (b) from Mr Jensen's proposed new subclause.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (4.26): Mr Speaker, I believe that the matters that Mr Jensen raises are already covered, in some measure, under various other clauses. I oppose his amendment in principle, principally

because it just keeps us going round and round endlessly discussing things. Ample consultation and discussion have been proposed. This amendment does not really do anything at all to help. It is purely a hindrance.

MR MOORE (4.27): Mr Speaker, I support the amendment put by Mr Jensen. I draw attention to the fact that the amendment provides that a notice be published in the *Gazette* by advertising and in a daily newspaper. This gets back to the issue that Mr Wood raised earlier when we moved that the notice in a daily newspaper be on a Saturday. Since then I have had a number of discussions with Mr Wood and with Mr Kaine on this issue. I have yet to get back to other members, but I will raise it now.

Mr Wood assures me that he is prepared to make it an administrative practice to have the Saturday as the day on which these notices appear. By having it as practice rather than in legislation, the problems that Mr Wood raised earlier will be resolved. When we have had assurances that things would be made practice, they have been made practice and that has resolved the problem.

Therefore, if somebody accidentally advertises on a Wednesday, instead of having a major problem the department can draw attention to that, advertise on the Saturday as well, and the problem will be resolved. There will not be the situation where somebody's house has to be pulled down because somebody else finds a legal loophole. With that in mind, I am certainly prepared to accept, I understand that the Leader of the Opposition is prepared to accept, and Mr Jensen acknowledges that he is also prepared to accept, that Saturday advertising be administrative practice.

Therefore, I will later move that we recall clause 16 to remove the reference to Saturday and just proceed with the provision that notices regarding variations appear in the daily newspaper, as is proposed by Mr Jensen in this particular amendment. So, we will be able to resolve that problem in an appropriate way, following discussion. I think that is a very positive step forward, and I hope that the rest of the legislation will be debated in such a sensible way as well.

MR KAINE (Leader of the Opposition) (4.29): Mr Speaker, before you put the matter to a vote, I move the amendment that I foreshadowed earlier:

> Omit "and" at the end of paragraph (a), and omit paragraph (b).

I have no objection to the notification by *Gazette* and by daily newspaper, but I do not think it is necessary to write to everybody.

MR JENSEN (4.30): Mr Speaker, we will be opposing Mr Kaine's amendment, but we will not be calling for a division.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (4.30): Mr Speaker, I will accept that amendment of Mr Kaine's. I would have rejected the lot of Mr Jensen's amendment, but what Mr Kaine proposes is more reasonable. I thank Mr Moore for his comments and for the discussion we have had. I think that what we have discussed is a sensible way to proceed. The practice will be clearly established that any of the range of notifications will be advertised in the Saturday paper. My giving that commitment might clear a lot of amendments and save a lot of time.

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

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

Clause, as amended, agreed to.

Proposed new clause 24A

MR JENSEN (4.31): I move amendment No. 22 standing in my name:

Page 13, line 24, after clause 24, insert the following new clause:

"24A. The Executive shall, within 28 days of receiving a draft Plan variation under section 24, refer -

(a) a draft Plan variation; and

(b) the documents referred to in subsection 24(1) that relate to the draft Plan variation;

to an appropriate committee of the Legislative Assembly together with a request that the committee report on the draft Plan to the Legislative Assembly.".

Mr Speaker, this is an amendment that has been accepted by this Assembly in relation to the interim Territory planning legislation. It requires the Executive, within 28 days of receiving a draft plan variation, to refer the draft plan variation and the various documents and background papers that relate to the variation to an appropriate committee of the Assembly, together with a request that the committee report to the Legislative Assembly on the variation. In view of the fact that this has already been supported prior to this by the Assembly as a whole - I acknowledge that the Government may not necessarily accept this - I would hope that this amendment will receive a speedy passage.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (4.32): Mr Speaker, the Government opposes this proposal. It is one that the Assembly must give the most serious consideration. I believe that a lot of the amendments proposed by Mr Jensen are genuine in that they are based on his notion of consultation. I think he has overdone it; but I acknowledge how genuine his amendments are. But I think this amendment presents the most grave difficulties.

Mr Jensen's party wanted a committee system. It was one of their very serious options when this parliament was first instituted. We have not gone down that path of government by committee. We have a very strong committee system; but the committees are committees of the parliament, not of the Government. There may have been some speculation in the days before the first Government was formed, but no-one has ever suggested since that we go down the path of government by committee. Yet this amendment is a potent step to take us down that line. When the Alliance Government was in power it did not propose government by committee, and it did not institute anything so to do.

This amendment has very serious ramifications for reasonable expectations of how things may proceed in this Territory. It means that, once the Planning Authority has considered a matter, it automatically goes to the PDI committee not just once but again later on.

Mr Jensen: No, that is not proposed. It is not necessary later on. Only once is enough.

MR WOOD: You are proposing that every variation, no matter how minor or how major, go to that committee before the Executive can place a mark on it. You are proposing an alternative government. You have no date on this. It could be blocked in a committee; it could be stymied there indefinitely. You are proposing what you refused to give when you were in government. You are taking the role of government.

Nowhere else in Australia does this apply. Nowhere else where there is a Westminster system does this apply, and for very good reasons. Out of confusion last week an amendment was agreed to in this Assembly that allowed this to occur temporarily. We have perhaps been fortunate in that, because we have seen what a mess it can make of things. I have had complaints in this Assembly today about that procedure and how it operated in practice.

Mr Jensen: You tried to play it, Bill.

MR WOOD: I tried to do the right thing. Confusion reigned. If you write this provision permanently into legislation, you will be doing great damage to the normal and proper way that things proceed in the ACT. You will be setting up a whole new process, and you will clog up the

system so that nothing moves in Canberra. You will be bringing derision on this Assembly because nobody will know with any certainty what can happen. The whole system will get clogged up.

I believe that this is obstructionist and negative. It is not compatible with the type of government that we have elected to operate in this Assembly. In the interests of reasonable progress, of reasonable movement in the ACT and of ensuring confidence of the ACT community, both business and private, this proposal has to be rejected.

MR KAINE (Leader of the Opposition) (4.37): Mr Speaker, I understand the concern of the Minister in this particular matter. I think it is, however, ill founded. I point out that the majority of the members of this Assembly, only in recent days, in fact made this amendment to the Interim Planning Act. In other words, it is the law now.

Mr Wood: And it is already not working.

MR KAINE: It has not been given a fair chance to work, Minister, and I think therein lies the problem. The fact is, Mr Speaker, that the Planning Committee of this Assembly, for the last three years, has been receiving copies of variations at the same time as they have gone out for public consultation. In all of that time, to my knowledge and understanding, in connection with only one has the committee conducted an inquiry. That was in connection with the Forrest bowling club quite recently. That was only because of the public controversy that surrounded it.

So, the evidence would suggest that the committee is not going to conduct an inquiry into every variation that comes its way. It will accept that most of them are variations that should properly go ahead without further study, without further inquiry. It will come back to the Assembly quickly and say so, and the Executive, in accordance with Mr Jensen's proposed new subclause to clause 25, which we have not got to yet, will then be able to go ahead and make its decision.

It will be able to make its decision in the knowledge that it has the endorsement of the Assembly; that the Assembly is not likely, after the event, to challenge as it had to attempt to do in the case of the Forrest bowling club. In that case, the Government had already made its decision and the committee felt that there was a need for further review. It undertook such a review, and it did so in a very short timeframe which made it very difficult for the committee to do its work properly.

I suggest that the Minister's worst fears will not be realised; but, as Leader of the Opposition and potential Chief Minister and, indeed, potential Planning Minister again, I give an undertaking to this Assembly that, if in our experience this becomes a bottleneck and planning

variations are held up simply because the committee cannot process them, or they deliberately hold up particular variations and do not process them within a reasonable timescale, I personally will move to have this particular provision in the Act changed.

MR MOORE (4.40): Mr Speaker, I think it is a very sensible amendment by Mr Jensen. We are talking about a variation to the Territory Plan. We are not talking about every small development that is going to occur in Canberra. We are talking about variations to the Territory Plan. We are not talking about lease purpose changes or any of those other minor matters. Considering the fact that the draft Territory Plan is now going through the process of variation, we can expect that the vast majority of issues that need to be raised will be dealt with, in the initial instance, by the draft plan.

Of course, planning is a matter that is constantly evolving and constantly changing. There will need to be variations, but it is important that all members of the Assembly have involvement in those variations to the plan. What Mr Jensen's amendment provides is a very sensible methodology for doing that. Mr Kaine's very sensible speech reinforced that, if in fact this does create a bottleneck, members will be prepared to change this provision.

Often we are very fearful of all sorts of things and can react because of some terrible fears that are quite unfounded. I believe that the fears will be shown to be unfounded, and I believe that we have had a demonstration that members are not prepared to move disallowances willy-nilly. In the Planning Committee they have not moved to investigate every variation. The vast majority of them are quite sensible; but it is certainly appropriate to refer them to the Planning Committee as a matter of course, so that they can be looked at.

In fact, of course, major variations to the Territory Plan have been referred to the Joint Parliamentary Committee on the ACT for some time. If the Federal Parliament considers it appropriate to have a Federal parliamentary committee look into this issue, then surely it is appropriate for the Assembly to ensure that they can look at the issues that arise in variations.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (4.43): I want to be quick, Mr Speaker. I think the answer is in the next proposed amendment. Things will get clogged up, because the next amendment says:

> The Executive shall not seek to place any unreasonable time period on a Committee ...

Mr Jensen: You have brought that on yourself, Bill.

MR WOOD: No, that has been there for a while, Mr Jensen.

Mr Jensen: No, it has not. That is a new one.

MR WOOD: I was responding to the spirit of this Assembly. I will repeat that forever. You tell us, "We will consider variations, but do not expect us necessarily to churn them out. If we want to, we will sit on them for as long as we like". Do not forget that we also have the ability for the committee, once it has been through the normal process of the Executive, to consider any variation it wishes and we have added to the processes the deemed disallowance provision which requires any draft variation to be debated in this Assembly, so there are more - - -

MR SPEAKER: Order, Mr Wood! Members, I do not think it is appropriate for Ministers and others to discuss matters across the barriers to the public gallery.

MR WOOD: The deemed disallowance provision and the reference to the Planning Committee give ample scope for debate. I think we should uphold the well-established principles of the Westminster system and reject this crazy amendment.

MR KAINE (Leader of the Opposition) (4.44): The history of this particular amendment that Mr Jensen has put forward is very short indeed. In fact, it has all happened within the last 24 hours. The reason for it is not the reason put forward by the Minister - that we will unreasonably delay the response and take too long to come back. The reason why it is there is that we find it unacceptable that the Minister impose a 24-hour turnaround on considering a very complex and very controversial variation. The problem is not the one that the Minister is putting forward, but in fact the very opposite of it.

Again I say that I believe that the members of this Assembly, by and large, are pretty reasonable people, and none of us are going to take a variation, particularly one that we know to have some sensitivity, and just sit on it or just shelve it. It might happen in other parliaments, but the committees of other parliaments are perhaps not under day-to-day scrutiny as members of this Assembly are. Just as every member of this Assembly is under scrutiny 24 hours a day by the media and others, our committees are under pretty close scrutiny as well. They simply would not get away with the kind of delaying tactics that the Minister is referring to, even were they of a mind to play those games, and I am quite sure that they would not be.

I understand the Minister's concern. If I were the Minister, I would probably feel the same way; but I think it is something that we have to try. If it works, I think it will turn out to be beneficial to those people who have an interest in these matters. If it does not work, if it is broke, fix it.

MR JENSEN (4.46): In my closing comments on this - as I have only two chances to speak - what concerns me is that the Government seems, for some reason or other, to be concerned about the role of committees in providing advice to the Government. This is really all I have suggested and it is not the first time I have suggested this. I suggested it to the previous Chief Minister when I was chairman of the Planning Committee and an Executive Deputy within the Government. I suggested that the information be provided to the committee before the decision was finalised by the Executive, because it seemed to me that it was very appropriate in a small Assembly such as ours, which is seeking to develop a strong committee system, to use the committee system to provide advice to the Government - and the Assembly, for that matter - in these areas.

It is up to the Government, if it can rustle up the numbers, not to accept the advice of the committee. That is the prerogative of the Government and the Executive, but at least it provides an opportunity for the Executive to listen very carefully to what the committee has to say. As I said, I continually argued for this; I have argued for it all the way along the line. I have been very consistent about this, even in government.

Mr Wood often suggested that we should trust the bureaucracy. Mr Wood said, "Trust the bureaucracy. Trust all those planners out there. They are not going to do you in the eye. They are not going to try to do that to you". What I am saying to Mr Wood, on behalf of the community, is, "Why are you not prepared to trust the good sense of the members of this Assembly in relation to the role of committees?". I think that in general terms, in the life of this parliament, the role of our committees has been quite sensible and generally very appropriate. Mr Wood, as the chairman and member of a large number of committees, I think knows exactly what I am talking about. I think we have built up a process - - -

Mr Wood: I know how long it takes to get things through committees. I well know.

MR JENSEN: That depends on the issue.

Mr Wood: Yes, exactly.

MR JENSEN: That depends on the issue. I think that in most cases the Planning Committee has acted pretty swiftly when they have been asked to comment on these issues.

I also need to correct Mr Wood in relation to the deemed disallowance provisions. It is not total deemed disallowance. There is a requirement for a motion of disallowance to be moved before a debate can be brought on. If no motion is moved, the variation goes through as appropriate. That is different from the requirement for a motion to be moved to support it. That is the major

difference between the full deemed disallowance and the system that we are going to have operating after this proposal is adopted and that has been operating since the amendment to the Interim Planning Act that was approved by this Assembly.

Frankly, Mr Speaker, this is not government by committee; it is government following the advice and review of the process by the committee. Let us once again remember that this is a unicameral parliament. We do not have two houses; we do not have a house of review, and I am not suggesting that we do have a house of review. But in a small parliament such as ours it has always been our contention that the committee system provides that sort of review. As I said, I always sought to have this information referred to the committee prior to the decision being made.

Once is enough, Mr Wood. There is no requirement for it to go back to the committee. Nowhere am I suggesting that it should go to the committee twice; only once. That is all that is necessary. The information comes to the committee and it is most important. If it does not, the committee has to make a decision - based only on the submissions, on no other information - on whether it is going to conduct an inquiry.

It does not know what advice the Planning Authority has given to the Executive. In most cases, if it looks at that advice that is given to the Executive, it will probably be quite happy with it, accept it and send a note to the Minister saying that the committee is happy and has no problems. The Minister can then include that response from the committee in his speech at the time of tabling the variation to the Territory Plan, and that would normally be the end of the matter, I would suggest.

So, on that basis, Mr Speaker, I think Mr Wood's concerns are unfounded. I am pleased that this proposal will be supported by the Liberal Party, and I look forward to a positive vote.

MR MOORE (4.52): Mr Speaker, an interjection by Mr Wood a short time ago was something along the lines that he knows how long things can be held in committees. The Public Accounts Committee, in dealing with the Auditor-General's reports, on a series of occasions has simply made statements to the house about the positive aspects of the reports. I believe that, with a vast number of variations, that will be the approach of the Planning Committee. I think the fears that have been expressed are substantially unfounded. This proposal is a very positive way to open what is going on for the Assembly as a whole.

Question put:

That the proposed new clause (**Mr Jensen's**) be agreed to.

The Assembly voted -

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

Question so resolved in the affirmative.

MR SPEAKER: I believe that it is an appropriate time, under the resolution passed this morning to suspend standing orders, to call on private members' business.

MOTOR TRAFFIC ACT - DETERMINATIONS NOS 37 AND 71 OF 1991
Motion for Disallowance

MR STEFANIAK (4.59): I move:

That paragraph (g)(ii) of the Schedule to Determination No. 37 of 1991 and paragraph (g)(ii) of the Schedule to Determination No. 71 of 1991 made under section 14 of the *Motor Traffic Act 1936*, relating to motorcycle registration fees, be disallowed.

The motion of disallowance relates to two determinations because a determination increasing a number of motorcycle fees under section 14G of the Motor Traffic Act 1936, as amended, was repeated. The registration fee used to be $41, I understand, for all types of bikes. There are now two new categories. The fee was increased to $55 where the engine capacity is 600cc or less. Where it is greater than that, category 2, the fee went up to $105.

I do not think anyone here would have a particular problem if the $41 fee, in both cases, had gone up to $55. However, there is a big problem with the increase to $105 for motorcycles over 600cc. That is about a 156 per cent increase. Mr Connolly refers to the increased charges as moderate. I do not think 156 per cent can possibly be referred to as moderate in any circumstances, particularly when other government charges are kept at the CPI increase levels of around 5 per cent or so.

In Canberra there are only 1,800 motorcycles in the over 600cc category, out of a total of 4,700 bikes. It appears that by slugging the owners of 1,800 large motorbikes the Government has attempted to choose an easy target and gain an extra $90,000 in revenue without losing too many votes at the next election. What they have succeeded in doing, however, is to put all those motorcycle owners offside.

The Government will say that this was one of the charges which the Alliance Government was going to impose.

Mr Connolly: You bet we will say that.

MR STEFANIAK: Yes, indeed they will, and that may be so. That was pointed out quite - - -

Mr Connolly: It was all right then, but now you think there are a few votes in it.

MR STEFANIAK: Rubbish, Mr Connolly! The problem was pointed out to the former Alliance Government members, the former Treasurer and me included. Certainly, as far as the Liberal Party was concerned, the iniquity of what was proposed, be it under the Alliance Government or yours, was seen. We reviewed a decision initially taken by the Alliance Government that saw it as quite iniquitous. This motion for disallowance is moved as a result of our investigation of the matter.

Let us look at the facts, Mr Speaker. Why should a small number of people carry a massive increase in costs - 156 per cent for large bikes, as opposed to 34 per cent for small bikes, and 23 per cent for motor cars? For the negligible impost of only $1 on every motor car, the Government could have kept the increase on large bikes at 34 per cent, which would still have been larger than the increase for cars. By doing that, they could have increased revenue by $140,000 and caused no backlash at all.

It appears that they did not do their sums very accurately. We pointed that out to them when Mr Connolly said that he was reviewing the fee. If they charged an extra $1 for every car, they would have had an extra $50,000. They certainly would not have cost themselves votes for continuing this ridiculous increase for large motorbikes when the iniquity of it was pointed out to them.

The owners of the large bikes are not simply whingeing that their costs have increased. The biggest stumbling block is the extra $50 levy that has been lumped on to that small group of people for no valid reason. I say $50, Mr Speaker, because for smaller bikes the fee went up from $41 to $55. We are saying that something around $55 would certainly be more realistic. Mr Connolly has alleged that that fee increase is linked to the Government's road safety strategy and that it has tried to create a disincentive for motorcycle riders to ride large machines.

The Government appears to believe that large motorcycles are more dangerous. Mr Connolly himself has admitted to representatives of motorcyclists of the ACT that the Government has no evidence, though, linking large cycles with increased accident rates. By the way, at the meeting where Mr Connolly said that, he also admitted that the Government does not actually have a road safety strategy either. That is an interesting little point.

Mr Speaker, there have been six road deaths related to motorcycles this year. The Australian Federal Police advise that not one of those deaths included a rider of a motorcycle over 600cc and three of them occurred in single vehicle accidents involving inexperienced, unlicensed riders who had not had any formal rider training.

The Government continually quotes figures from a survey that motorcycles have proportionally higher fatalities per kilometre travelled. They have not yet provided details of the survey; nor have they shown its relevance to the ACT. The NRMA have recognised improved motorcycle safety statistics by reducing third-party insurance fees each year since 1985. There is no justification for creating separate registration categories for different sized bikes. After all, cars attract the same fee, regardless of their accident record, weight, size, engine capacity, power, passenger carrying capacity, et cetera.

In relation to third-party insurance, the Government continually refers to total registration costs, and those include third-party insurance. Third-party insurance rates are irrelevant to government revenue. In Canberra, all motorcycle third-party insurance is run by the NRMA, a private organisation. The third-party insurance scheme is a self-funding, user-pays insurance scheme with rates that are variable from year to year in relation to the claims record for each category of vehicle. The NRMA have identified $40m that they are prepared, very properly, to pour back into the community as a result of more money coming in than they bargained for, and that is appropriate.

Mr Berry: As a result of the brilliant efforts of Terry Connolly**.**

MR STEFANIAK: I think the NRMA should be complimented first and foremost. Third-party insurance rates are not part of government revenue and therefore cannot be incorporated into the setting of government fees.

A number of erroneous comparisons have also been made between New South Wales and the ACT, and the Government claims that motorcyclists are better off than car owners when comparing equivalent New South Wales charges. Total registration fees break down into third-party insurance and a registration fee. In addition, New South Wales vehicles carry a road tax component. We have already excluded

third-party insurance levies from the government-controlled sphere. In New South Wales this leaves a registration and road tax component for the larger cycles at $66. The equivalent fee in the ACT is $105, or about 80 per cent more. How equivalent is that?

The difference in costs between the ACT and New South Wales for a motor car is only about 8 per cent - $185 and $170 respectively. So, while fees for cars may have some equivalence, there is absolutely no argument for raising fees for large bikes for this reason, because there simply is no equivalence for those vehicles between the two States.

The Government, in desperation, having all its arguments overturned by the motorcyclists, has thrown in a wild card of allegations of New South Wales residents registering motorbikes in the ACT in order to pay lower fees. The Government has not been able to back up these claims with evidence of motor vehicle registry records showing a disproportionate number of New South Wales residents registering motorcycles illegally in the ACT. If such cases existed, I am sure that by now the Government would have had them investigated and publicised, to add fuel to its arguments that fees can be justifiably increased. If that can be proved to be happening, persons involved can be charged, I think, under the Motor Traffic Act. They can also perhaps be charged under the ACT Crimes Act, as it is soon to be called.

The Government cannot show good and just reason for the exorbitant increase in charges on motorbikes in the over 600cc category. Such increases are simply a revenue-raising effort, and not a terribly efficient one at that. The Government, by targeting such a small group, have not only alienated a section of the community, that group included, but also cut themselves short of about $50,000 which they could have raised painlessly, without a murmur from the community, in the way I suggested earlier.

Owners of large bikes need to be treated fairly, along with other vehicle owners. The effective $50 slug that was levied on them should be removed, allowing their fee increases to fall back in line with those applying to owners of smaller bikes. This, members will recall, is still a much greater increase than that being carried by motor car owners. Any extra $1 levy that may or may not be raised by the Government, which could then be placed across the board on all road users, would raise additional revenue for the Government; in addition, a certain amount of that extra money could be spent on the training of motorcycle riders, for example, as that would contribute to greater safety on the roads for all users.

In conclusion, it is interesting to look at a comparison between ACT and New South Wales motorcycle registration fees. In 1984-85, in the ACT we were $27 and New South Wales were $22. They raised theirs to $23 in 1985-86 and

to $25 in 1986-87. In 1987-88 our fee was $30 and theirs was $27. For some reason, in 1988-89 we dropped down to $27 and they went up to $28. These figures all relate to motorcycles over 600cc. In 1989-90, we are at $34 and they shot up to $59. That included for the first time New South Wales road tax. In 1990-91 we increased our fee to $41; they increased theirs to $63. This financial year there has been a modest increase in New South Wales to $66. That includes road tax, as it did the year before. Under this Government's proposal, ours shot up from $41 to $105.

I seek leave to table the document I have been referring to. I also seek leave to table a document I referred to earlier, page 4 of the determination. Section 14G sets out the relevant figures.

Leave granted.

MR STEFANIAK: When we reconsidered the proposals of the Government when the motorcycle representatives came to see us, on delving into it we saw the inequity of what was proposed, hence our deciding to go ahead with this course of action. I also indicate that owners of large motorcycles are an ageing part of the population. The common image people might have from 20 or 25 years ago, of bikies riding Trumpies and things like that, is clearly quite unfounded. They are a responsible part of the community. I was told that their average age is approaching 40 or so. One must look also at the power of some of the smaller bikes. A small 250cc bike these days is probably just as powerful as an old 650 of 20 years ago, if not more so.

Those are additional reasons for being sensible here, and they further indicate the inequity of what is being proposed. I hope that the majority of the house will vote in accordance with my motion and that a proper fee will be determined by the Government.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (5.11): I must commend Mr Stefaniak on a very stirring speech, full of fiery rhetoric and words like "unfair", "slug", "inequity", and all the rest of it, no doubt directed at members of the motorcycling fraternity who are present in the gallery. The speech would have been very compelling but for the fact that six months ago Mr Stefaniak, as part of the Alliance Government, supported precisely these charges. The act that is being attacked today in the Assembly was one of the first formal acts of the incoming Follett Government. It had all been done; it had all been approved. We had presented to us for endorsement a package that had been approved by the former Government, and as part of a vast raft of fees and charges we supported this.

It must be said that it is an act of breathtaking political cynicism to move from supporting a charge when in government to leading public attacks on the charge when in opposition. A degree of consistency would have been

appreciated, but it seems that the Liberal Party is not likely to show that degree of consistency. It was interesting that Mr Stefaniak's speech was replete with references to the number of votes the Labor Party is going to lose over this, which he presumably thinks he is going to pick up. The community generally regards politicians with some cynicism. It is an act of breathtaking cynicism to support a charge when in government, and then lead the attack against it when in opposition.

The essential reason why these charges were supported by the Government, and why, despite a number of meetings between the Motorcycle Riders Association, the Chief Minister and me, we said that we could not accede to their request to revoke the charges, was that we have traditionally kept a degree of parity between charges in the ACT and charges in New South Wales. I will table a comparison setting out the cost of registering a bike in the ACT, which is shown by a red line, and the cost of registering a bike in New South Wales, which is shown by a blue line. While traditionally through the early 1980s the cost in the ACT was somewhat above that in New South Wales, in recent years the gap has changed. I table that document.

I also table a document setting out the increase in registrations in over 600cc motorbikes, which shows, from a period of stable growth, a dramatic and rapid increase. Strangely, that is coincidental with the period in which the New South Wales cost of registration came to exceed the ACT cost of registration. I can show that even more graphically with a graph that correlates the number of registered ACT motorbikes with the differences in ACT charges. That shows a steady pattern, while the blue line - the cost of registration in New South Wales - is above the cost of registration in the ACT. Whereas the blue line dips below, showing that it is cheaper to register in the ACT than to register in New South Wales, the red line - the number of bikes registered in the ACT - begins to show a period of dramatic growth. I table that document.

We were satisfied that it is sensible to maintain parity with New South Wales, as we do on a range of charges. All the former Ministers of the Alliance Government would be familiar with that general issue of parity with New South Wales charges, essentially because it is hard to justify to anybody why a certain act should cost the Canberra citizen more than the Queanbeyan citizen or the Queanbeyan citizen more than the Canberra citizen. It is a general starting point for most fees and charges. Indeed, we recently increased speeding fines for similar reasons, and that was welcomed by Mr Stefaniak. So, the starting point is that there ought to be parity. When, added to that, we saw that when parity disappeared there seemed to be a dramatic increase in the number of vehicles registered in the ACT, we were convinced that it was a satisfactory move.

It must be said that, even with the charges the ACT Government has imposed, it is still dramatically cheaper to register a large bike in the ACT than it is in New South Wales. To register an over 600cc motorbike in the ACT costs $206. To get the same bike on the road in Queanbeyan will cost $411. So, this iniquity, this slug, this onerous burden that Mr Stefaniak talks about, means that under our proposal the Canberra resident would pay $206 while his Queanbeyan cousin pays $411. Mr Stefaniak thinks that is an appalling slug on the ACT motorcyclist and proposes that the ACT motorcyclist will pay $206 when his Queanbeyan cousin will pay $411 - precisely half the cost.

No doubt that will continue to see the number of motorcycles registered in the ACT dramatically increase. When you have that sort of incentive for cross-border operations - a 100 per cent price difference, in effect, between the cost here and the cost in New South Wales - you really are encouraging people to get around the law and register their motorcycles in a mate's name in the ACT. That is not a satisfactory position to be in and it is not a positive move. This measure was going to raise revenue in the order of $70,000-odd, which will now be thrown out if this motion is passed.

Mr Stefaniak went on at some length about motorcycle safety. It remains the case that all States and Territories are concerned about safety of motorcyclists. Motorcyclists as a group, unfortunately, comprise a larger proportion of road accident statistics than they should as a percentage of road users, and that problem has been addressed in a number of positive ways. Only a matter of six or eight weeks ago I was able to open formally the new motorcycle education course opposite the Phillip motor vehicle registry.

Governments around Australia are recognising that one of the important ways of addressing motorcycle safety is to have better educated riders, as well as focusing on other awareness programs. All of that costs money, of course, and all those programs must be paid for. This registration proposal, which is consistent with usual ACT practice of keeping charges around those of New South Wales, is correcting an imbalance that occurred in the mid-1980s, when for the first time ACT fees became dramatically different from those of New South Wales and resulted in a vast increase in ACT registrations.

In throwing out this proposal and throwing out that revenue, we will have to look elsewhere to fund those sorts of programs. Mr Stefaniak says that we should charge everybody a little more rather than recovering from this group. I am not sure whether everybody else would be terribly happy to get a letter from the Government saying that, because the Liberal Party have thrown out a fee that was based on parity with New South Wales, because the

Liberal Party have decided that ACT motorcycles over 600cc should incur only half the New South Wales fee, everybody else will have to pay more. If that is what they think is fair, I guess I cannot dispute it further.

The Government, after considering the case put by the motorcycling fraternity, maintained its view that this was a fair and appropriate increase, essentially for reasons based on interstate parity. We are somewhat staggered that a proposal that had been endorsed by the Liberal Party in government would suddenly become a cause for them to rally opposition to it. The cynicism, may I say, is breathtaking. I urge Assembly members not to be party to such a cynical exercise in vote grabbing.

MRS NOLAN (5.20): At the outset let me say that I had quite a lot of prepared notes in relation to this issue, but I do not think they are any longer necessary. The argument Mr Connolly has put forward is one that argues the case for all Assembly members supporting Mr Stefaniak's disallowance motion, and that is interstate parity.

Mr Connolly: You supported it in the past.

MRS NOLAN: I have never supported this, and at no stage was I aware of this situation until it was proposed by your Government.

Interstate parity is very important and it is an issue that should be addressed. The current situation is that the charge relating to New South Wales is only $66. The difference is that there is a $40 levy for all cycles, for all cars. It happens to be because the GIO in New South Wales lost money. The reality is that they put a tax right across the board - all cars, all cycles. If you take it back to registration fees, you are looking at a situation where the charge proposed in the ACT is over $100 while the New South Wales charge is $66. You cannot really argue the case of the $40 levy - - -

Mr Connolly: But you pay $106.

MRS NOLAN: Because you are paying a $40 levy, but you are still paying the same $40 levy if you own a car. In the ACT, whether you own a small car or a large car, the fee charged is exactly the same. It seems a little strange that for a smaller bike there happens to be a different fee than for a larger bike. I do not quite understand the difference. Perhaps if one had looked at imposing the increase right across the board, the fee would not have had to be as exorbitant for the larger bikes but could have been more general and perhaps raised the same sort of revenue. The reality is, Mr Connolly, that you have gone for raising revenue only from the larger bikes - - -

Mr Connolly: We have done what your Government did.

MRS NOLAN: If you say that the Alliance Government proposed this, that is fine. It was done without my knowledge and I had no part in it. I do not support what has been done and I support Mr Stefaniak's disallowance motion.

The issue should also be addressed in terms of safety. I do not necessarily think that one can blame bikes for all of this, and I hope that governments will be looking to address the issue much more in relation to driver education. That is very important, and it is something the Government should be doing. If it is a matter of the revenue you are raising, why did you not go across the board and look at $1 for every car and every bike, or even 50c for every car and every bike?

Mr Connolly: Because we wanted to keep parity with New South Wales across cars and bikes.

MRS NOLAN: I do not think you have kept parity. As I said, you have a situation where the charge is $66 in New South Wales and $105 in the ACT. The difference is that $40 levy, which is paid by everybody in New South Wales, not by just a few. The increase you are asking of those bike owners in the over 600cc category is just too much; it should have been done in a much more staged way. Therefore, Mr Speaker, I will be supporting the disallowance.

MR JENSEN (5.23): We saw an example of the flamboyance of the young Minister opposite this afternoon which was quite entertaining. If they were handing out Oscars, Mr Connolly may have been a candidate. We all know about lies, damned lies, and statistics. We also know about the way people can use graphs. Any of us who have access to a computer program know how very easy it is to make graphs look different, how we can show the difference between the facts and figures just by changing the X and Y axes on a graph with the press of a computer button. We had a little of that this afternoon, with large diagrams flashed all over the place and a little bit of theatrics. I have said in the past and I will say again that Mr Connolly still has his L plates on, and that is appropriate in this debate.

Let us be realistic about this: The Rally supports the proposal to disallow this change. The new ALP Government, when they first came into power, had a perfect opportunity to review this whole process. They did not have to accept the decision that had been made by the Alliance Government.

Mr Connolly: So, you accept that it had been an Alliance decision?

MR JENSEN: I was not a part of the Alliance Cabinet, Mr Connolly. I may have been a member of the Alliance Government, but I was not involved in the decision directly taken by the Alliance Government's Cabinet. Let us get that right. Let us put that on the record, so that everyone knows what is going on.

The new ALP Government had the perfect opportunity, and if they had done their homework they probably would have found some of the flaws in the arguments being put to the community by the representatives of the Motorcycle Riders Association. Members may recall that in September this year I put a question on notice to the Minister in relation to his statements about safety and the number of fatalities. For example, the Minister made a statement that motorcyclists suffer about 19 times as many fatalities per kilometre travelled as car drivers.

I asked the Minister on what he based that statement. I asked what was the equivalent figure for fatalities within the ACT for motorcycles with capacities over 600cc and up to 600cc. I also asked what information was available on the size, capacity, cc, and type of the six motorcycles involved in fatal accidents in the ACT since the beginning of the year, including whether the driver was licensed or not. I also asked what were the details of the various component parts, if any, of the calculation of the motor vehicle registration fee for motor cars and motorcycles in the ACT and how this compared with the equivalent fees in the States.

Mrs Nolan: Did you get an answer?

MR JENSEN: I did get an answer, and it appears in *Hansard* at pages 3638 and 3639. Mr Connolly said in his answer that the information in relation to there being 19 times as many fatalities per kilometre came from a Federal Office of Road Safety publication of March 1991 on motorcycle crash statistics. It reflects the national situation - I emphasise that; it does not reflect the ACT situation. Once again, a little bit of a half-truth was thrown in for good measure.

I went on to ask about the relationship between engine capacities and crashes. Those statistics are not collected in the ACT; the answer I was given was that that information is not available. In relation to the six accidents, in four of those the engine capacity was not known; one was a 600cc and one was a 550cc. Three of the motorcyclists were licensed and three were not; and three were one-vehicle accidents, that is, the motorcycle on its own, and the other three were two-vehicle accidents. According to the answer given to me by the Minister, the AFP agreed to include engine capacity on the fatalities register for motorcycles in the future.

It is interesting to look at the next page of the answer in relation to the comparison with motor vehicle and bike registrations in the ACT. When you look at the figures, which happily I was able to provide to the Motorcycle Riders Association, a very quick calculation shows that motorcyclists in the ACT actually pay significantly more than ACT car owners in comparison with the equivalent New South Wales registration charges. The registration fee for

larger motorcycles in the ACT is 59 per cent greater than the equivalent New South Wales charge, whereas the registration fee for motor cars in the ACT is only 8 per cent greater than that for New South Wales. So, there are a few problems in the logic of the comparison argument.

Looking at the motorcycle registration costs that were provided to me in answer to my question, we see that in New South Wales third-party insurance for motorbikes in excess of 250cc is $397. We all know that every vehicle in New South Wales currently has a compulsory levy of $40 because of factors related to a problem with the Government Insurance Office. Everyone has been slugged $40. We find that Mr Connolly in his argument has been trying to compare apples with grapes. That is how different they are.

Mrs Grassby: No, it is apples with pears.

MR JENSEN: In this case, Mrs Grassby, the difference is so great that I had to use apples and grapes as opposed to apples and pears. Apples and pears are almost the same size, and it is the size difference in the comparison that I am trying to get across.

Once again, we have an issue where the Minister and the Government had a perfect opportunity. When I believe that the information originally provided to me was incorrect, and any decision taken was based on that information, I am quite happy to stand up in this place and admit that I was wrong. It is a pity that a few more people in this business are not prepared to get up on their hind legs and say that they are wrong about a decision they have made. That is probably something the people of Australia, not just of the ACT, are seeking more of from their politicians.

That is why the Rally will be supporting the disallowance motion. We believe that the decision taken was wrong. It is inequitable. One of the ways around it, as Mrs Nolan has already suggested, may be to provide a very small across-the-board increase to everybody. I do not believe that people in the ACT would have any problem - I certainly would not - with an additional 50c or $1 per year on registration to cover this sort of thing. Maybe we need to have a complete relook at the whole issue of registration charges and fees on motor vehicles, particularly these days when we are seeking - - -

Mr Berry: I never heard you arguing for that when you were in government, Norm.

MR JENSEN: You would be surprised, Mr Berry. We are seeking these days to reduce the amount of fossil fuels we use. This group of citizens in the ACT and around Australia are actually reducing the amount of fossil fuels the country is using because they use motorbikes as opposed to cars. Maybe what we need to do, as they have done in a lot of other countries, is look very carefully at the size

of the motor vehicle in regard to weight, passenger-carrying capacity, power, et cetera, and make a much more equitable assessment of registration fees across the board. We may then see a little equity coming into this issue, rather than flogging a group of people who are being good citizens and seeking to reduce the amount of petrol they use. What you are trying to do is the exact opposite, discouraging people from making use of an alternative form of transport.

MR STEVENSON (5.33): I do not believe that this issue is about motorcycle safety; I believe that it is simply about grabbing more taxes from the population. The Government look at where they can grab more money and, when they have targeted an area, they try to think up reasons to justify it. My experience in polling people in Canberra on various areas of huge tax increases being imposed, as the ALP is quite often wont to do, is that they do not agree with such increases. They also did not agree with the cuts on non-government schools and the cuts to police. The ALP quite often suggest that they consult with the different groups they are about to reduce money to or raise money from.

One thing that happens again and again in this Assembly is that the Labor Party say that they will consult with people, and then you find out that there was not consultation. The only time there was consultation on this issue was after the motorcycle riders held a rally outside. I believe that Rosemary Follett or one of the Labor members sent a staff member outside, who rushed out and said, "Look, we will talk to you". That was announced. The next thing I heard was that there was a meeting. Did anything happen about it? Absolutely nothing. There was no change whatsoever. I do not believe that there was the slightest suggestion that there was going to be genuine consultation; it was simply a matter of suggesting, "Look, we had better shut these blokes out there up. We do not want them saying that there has been no consultation. Let us pretend that we are going to have some".

Mr Connolly has mentioned parity with New South Wales. I think most people in this town are aware enough to know that the only time governments mention parity is when they have lower charges than someone else. At any other time they have to think up other reasons for grabbing more taxes from the taxpayer. In this case Mr Connolly tried to make the point, which was rent asunder by members of the Liberal Party and the Rally, that it was reasonable to make such huge charges.

I believe that Mr Jensen made one of the most relevant points regarding environmental factors. Indeed, that is an important thing to look at. Should we be giving incentives rather than disincentives to people to ride motorbikes or pushbikes? Mr Connolly spoke about a disincentive for large motorbikes, and yet gave not one valid reason for any disincentive. If members of the Labor Party choose to

drive in new motor cars supplied from taxpayers' funds, if that is their choice, why should someone else be discriminated against if they choose to ride large motorbikes that they pay for themselves?

The simple situation is that there was no consultation in the matter. It is probably right that the majority of people in Canberra, not just motorcycle riders, disagree with such a vast charge. It is certainly true that the Labor Party have not mentioned any valid reasons for such increases. I agree with the disallowance for those reasons, and it looks as though justice will be done on this issue.

MR DUBY (5.37): This is a ticklish issue. It is not often that I stand as an apologist for Minister Connolly; I think he would be the first to agree with that. However, the comments made by Mr Jensen, who is not here at the moment, unfortunately, that the Minister should receive an Oscar award for his fine acting performance were simply beyond the pale. If any awards are going at all, there should be a gold medal acrobatic award to Mr Jensen and, indeed, to the members of the Liberal Party for backflipping.

The simple fact is that this is an issue that no-one has been able to refute. Contrary to what Mr Stevenson says, the figures quoted by the Minister are accurate. No-one can dispute them. In the current situation, the cost in the ACT of registering a machine over 600cc is $105 per annum. The cost of registering a machine over 300cc in New South Wales - not over 600, but over 300 - is currently $106 per annum, on my understanding.

We then go on to the difference between the third-party insurance component of the total cost of putting a machine on the road in the ACT and of the total cost of putting a machine on the road in New South Wales. I am not going to get involved in the various differences between the costs of third-party insurance in New South Wales versus the costs of third-party insurance in the ACT. Suffice it to say that the total all-up dollar figure to a motorcyclist in Queanbeyan to register a 750cc machine, or whatever, is in the order of $507, I think. Here in the ACT it is about $507 - around $500 is close enough for argument.

Those are the figures I have. There are some titters from the gallery, Mr Speaker, that that is not the figure. I have been told that it costs about $500 to register a heavy machine in New South Wales. I also know that under this proposal it costs about $265 or $266 to register the same machine in the ACT. That is to put it on the road and pay your third-party insurance.

The reason for the difference is undoubtedly the difference between third-party insurance premiums. The argument has been made that the actual cost of registration in the ACT of $105 versus $106 in New South Wales should not be taken into account because there is a $40 slug on all

registration fees in New South Wales, whether it is for a motorcycle or a vehicle, in connection with a third-party insurance levy - I think that was the word used - to pay for costs incurred by the GIO over previous years in administration of the third-party insurance scheme.

That is not, to my way of thinking, a third-party insurance premium or a third-party insurance cost. That is a fee the Government has decided to impose in New South Wales upon all motorists and, as such, it is a government charge. It goes straight to Consolidated Revenue. I do not believe that it goes to the GIO. I do not believe that it goes to the third-party insurance scheme or system in New South Wales. It goes to Consolidated Revenue and, as such, is a government fee. The argument that there are differences between registration fees in New South Wales and the ACT frankly does not hold up.

What we are seeing is a prime indication of what we faced over 18 months with the people of the Residents Rally in particular in the Alliance Government: The inability to take a decision and stick to it, the futile attempt to be all things to all people. Mr Jensen says that the statistics quoted by the Minister are not accurate, et cetera. The fact is that they are totally accurate.

Anyone could argue with force that the fact that the likelihood of having an accident on a motorcycle is 19 times higher than when driving a passenger vehicle is irrefutable. To say that you need to break it down into the difference between big machines and small machines is simply not sustainable. That is the national average, and Mr Jensen is splitting hairs when he says, "It might be that in the States; but here in the ACT, where our road system is much better, it might be only half of that. There might be only 10 times the possibility of being hospitalised". The answer is that it is 19 times more likely.

This measure was included in the proposals of the Alliance Government, in which I was Minister for Urban Services and also Minister for Finance. I make no apologies for the decision. It was taken, and I at least have the bottle to say that it was taken for the hard reason of attempting to discourage folks from riding motorcycles. That is the truth. If I had my way, it would not be just heavy machines incurring registration fees of $105; it would be every machine. Let me make that clear.

I am not going to shirk the issues. I am going to say exactly what the motive was behind what I intended to do. I wished at all times to discourage people from going onto motorcycles. The reasons for that are quite obvious, in my view. Road injuries have a terrible place in our society, and the level of road injuries caused to motorcyclists is horrific. I was quite pleased that I was able to initiate a number of road safety initiatives in the two-wheeled area in relation to motorcycle training and various areas such as that.

I will not go into that. The simple fact is that it was done, and it was done, from my point of view anyway, quite deliberately to raise funds and to discourage people from going onto motorcycles, which were dramatically cheaper to register than in New South Wales. The figures quoted by the Minister about the increase in registrations of heavy machines in the ACT are accurate. There are a lot of shonky registrations being done in the ACT now. Whether that reflects on our registration procedures I do not know. Over the years there has been a reduction in the number of motorcycles on the road, and yet a huge increase in the number of large machines being registered in the ACT. The fact is that that is directly related to the comparative costs of registration between the ACT and New South Wales.

Apart from all that, this comes down to a matter of principle. That is the principle of allowing a government to set charges and to collect them as it sees fit - I suppose that is the way to put it. We are legally able to disallow, but in a normal world disallowances would not occur because in a normal world we would have majority governments.

There is a grave matter of principle involved in picking out one particular item from the ACT budget, even if it appears at first glance to be inequitable, because you perceive it to be politically opportune, and then denying the Government the opportunity to go ahead and impose those charges, particularly given the timeframe of this budget. Only this morning we had a letter from the Chief Minister discussing the concept of caretaker government in relation to building up to the election in February 1992.

If this is a matter of such great import, in my view it would be appropriate to leave the charge in place and let the voters - those motorcyclists who have to pay the fee - show at the polls their displeasure with the Government, and indeed with anyone else who supported the Government, me included. Perhaps it would turn out that a number of those people who are displeased are not on the ACT roll. It is a matter of principle in that regard.

As a general principle, I think this is setting a very dangerous precedent in terms of allowing and disallowing charges. I know that Mr Moore is going to get up and say that the Assembly is supreme, et cetera; but I have real difficulties with that. Let us be frank. This was introduced, quite deliberately, for safety reasons and for revenue reasons. For members to pretend that those two reasons are not valid reasons to enable the Government to set a fee, which is what a lot of people here are doing, is simply not being true either to themselves or to the facts, which are there for all to see.

I cannot support this disallowance motion. It would appear that the majority of members of the house will support it, from what people have said today; but I think it is a bad decision and one we could live to regret.

MR MOORE (5.47): That was a very straight speech from Mr Duby and one that did not pander to the people who happen to be in the gallery. My speech, too, is going to be a mixture, in a way, some of which people in the gallery will like and some of which they will not. I do have some understanding of how they feel. I have taken out my driver's licence to look at the number. I notice that it is No. 2; I also have a class 7 driver's licence, which allows me to ride a motorbike. I still have at home my helmet from when I did ride a motorbike, although I have not owned a bike for some time and I have not owned a motorbike in the ACT.

The principle of setting charges such as this has attracted a range of debate within the Assembly today. Mr Duby drew attention to the fact that there is a 19-fold higher chance of having an accident if you are on a motorbike than if you are in a car. I think that statistic, applied across Australia, does have some truth. At the same time, of course, it is a person's prerogative, and it should remain part of our freedom, to choose to take such a risk should he wish to. Mr Duby has accepted that - - -

Mr Duby: Hear, hear!

MR MOORE: I know that you are not disagreeing with that. He has said, however, that it is important, from his perspective, to discourage people - I think that was the term he used - by increasing the fee for a motorbike. I do not entirely disagree with that. I know that people are not going to be over-happy with that, but I do not entirely disagree with it.

What I find inequitable in this proposal is that it focuses on a specific size of bike without having the statistics to support that. What I suggest should happen, and I believe that I pointed this out to Mr Connolly quite early in the piece, is that that fee ought to be increased, but it ought to go right across the range of motorbikes. Mr Jensen said that it should be spread right across all people who hold licences. I do not accept that; I think it should go across motorbikes. The motorbike registration fee is out of kilter with car registration fees and has been in the process of catching up.

The lobby group for the motorbike association, which has been very effective and I think deserves congratulations, has pointed out that there have been significant increases over the past few years and much greater than the increases for cars. They are right. But that is how it should be. We ought not suddenly say that motorbikes will now be registered at the same cost as cars. That is an inappropriate way to go. But it is appropriate to bring those registration fees up closer to cars, particularly when there is some evidence that society as a whole pays extra money because of accidents involving motorcycles and because of the amount of time people are in hospital.

At the same time, I recognise that there has been a reduction in the number of third-party insurance claims as far as motorbikes are concerned. I think that this is a very positive aspect to motorcycle riding. I think that people are simply getting more responsible in the way they ride motorbikes, particularly in the way they ride large motorbikes.

The point I am making is that the fee, as it is levied at the moment, I believe, is inequitable. Therefore I will vote in support of the disallowance motion that Mr Stefaniak has moved. At the same time, I believe that when the Minister looks at this again and puts in the new rates those charges ought be spread across all motorbikes. It ought not focus simply on large motorbikes. I think that is a much fairer and more equitable way to do it.

It is very interesting to me to watch the turnaround that people have done on this issue. Mr Duby so far is the only member of the Alliance who obviously originally supported doing this very thing - - -

Mrs Nolan: The Executive.

MR MOORE: The Executive of the Alliance supported this very thing and now - apart from Mr Duby - have turned around, perhaps just to gain a few votes. I think it is time they really considered the issues at hand rather than just whether or not you pick up a few votes, because it is a much more important way to deal with it.

Mr Duby: There are no votes in it. None of the owners are on the roll anyway.

MR MOORE: It is refreshing to listen to Mr Duby speak about the issues rather than just dealing with the votes on this particular issue anyway. Mr Speaker, with that in mind, I indicate quite clearly that I will support Mr Stefaniak's motion of disallowance. At the same time, I encourage the Minister to come back to the Assembly with a gazettal which spreads that fee right across all sizes of motorbikes.

MR COLLAERY (5.53): I think, as a member of that Alliance Cabinet, I should stand up and face the music, and I am not afraid to. Members heard Mr Duby argue this case, and I can assure you, without revealing Cabinet confidences, that he was always equally persuasive in Cabinet on these issues. Members should recall that these charges form part of a three-centimetre thick annual decision by government to levy, change, alter, impose charges. I can recall at that time being quite interested in the revised charges for burial plots out at the cemetery. I remember asking Mr Duby why the charges for burying a baby only so many feet deep had been doubled or tripled or something. There probably were hundreds and hundreds of charges that the Government was reviewing.

The fact is that governments rely upon advice, and that advice is translated through Ministers. The fact is that Mr Duby tendered advice in government. At this stage I need to exculpate all other members of the Alliance, because Mr Stefaniak, Mrs Nolan, Mr Jensen, Dr Kinloch, Ms Maher and the Speaker, Mr Prowse, were not privy to that annual budget Cabinet process, one element of which is reviewing, annually, all charges to see what should be increased or decreased. They were not privy to it; so I want to stress that Mr Moore's comments, in terms of equivocation, can apply only to four of us. Mr Duby stuck to his ground.

I am quite happy to stand up here and say, having heard the other side of the argument, having listened to the arguments of the motorcycle people, that the decision I took was wrong. It was wrong. I will say it here. I will say it any time. I am quite willing to say that I did not consider a number of issues in the arguments presented, and, I want to add, nor did I consider the fact that the third-party insurance premium set in this Territory had been wrong for so many years. It is a joke.

For at least 10 years, we found out recently, moneys collected somewhere - I am not going to revisit the NRMA one - were excessive. I was glad to have revealed it during the estimates process. Who is to say that the $161 third-party insurance premium on bikes at the moment is a fair charge?

The fact is that it might be just as well that we take a step back on this and review the charge, and I am not chasing votes on that. I did not like the inference from Mr Moore. He is referring to only three of us and this is not a vote issue to me. I rode a motorbike for five years in France and I ruined most of my suits. At least here we do not get black ice. As Mr Duby and I know, in the last few months of the government we had a number of tragedies on bikes.

Mr Duby: I haven't got a kneecap.

MR COLLAERY: Mr Duby does not have a kneecap. He needs to be kneecapped occasionally, but you will be able to achieve only a partial job on him because it has already been done. So, some of us bear the scars of bike riding. There is no agenda here for or against trying to be objective. The fact is that the statistics show - - -

Mr Wood: Do you people not want the planning legislation up?

MR COLLAERY: Mr Speaker, this is an excellent time for Mr Wood to get that haircut that he has not managed to have. He is saying that he has not had time to get out of the house. We will only be another few minutes. This is important to the motorcycle riders and it is important that

we respond to Mr Moore's imputations that somehow or other we are chasing votes in this debate. Mr Jensen is not. He was not part of the original decision. Mr Stefaniak is not. Mrs Nolan is not. Anyone else who was not part of it is not.

I want to stand here and say that, if there is any mistake that requires review, it rests with me and a couple of others, and no-one else. That is the situation. Mr Duby wants to stick to his case. I am persuaded, particularly over the revelations on third-party insurance premiums and the fact that most of the accidents are occurring with inexperienced riders on smaller bikes, that we should relook at this issue.

Question resolved in the affirmative.

LAND (PLANNING AND ENVIRONMENT) BILL 1991
Detail Stage

Consideration resumed.

Proposed new clause 24B

MR JENSEN (5.59): I think we are talking about a proposed new clause 24B. Wait until I get my amendments.

Mr Wood: Why do you not just pull this out? Look, it does not mean anything. It is not binding in a court.

MR JENSEN: Just settle down, Mr Wood; your turn will come.

MR SPEAKER: Order! Mr Wood, you will get your turn.

MR JENSEN: Mr Speaker, I move:

After clause 24A, insert the following new clause:

"24B. The Executive shall not seek to place any unreasonable time period on a committee of the Legislative Assembly for that committee to report to the Assembly.".

Unlike Mr Wood, I believe that this amendment does mean something, and it is proposed for a very good reason. Mr Wood, as the Minister, and I presume acting in conjunction with the Executive, sought, I believe, and Mr Kaine believed, to place on the committee an unreasonable time period in which to report to the Assembly in relation to the proposed Manuka development. On that basis, Mr Speaker, I believe that it is a very important amendment, and that is why it has been moved.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.00): Mr Speaker, I am not going to speak at length about this. This really does not do anything. It is more a gesture than an opinion. I oppose it. The Government opposes it.

Proposed new clause negatived.

Clause 25

MR JENSEN (6.00): Mr Speaker, I move:

Page 14, line 5, after subclause (1), insert the following subclause:

"(1A) Before exercising its powers under paragraph (1)(a) the Executive shall have regard to any recommendations of a committee of the Legislative Assembly in relation to the draft Plan variation, background papers and reports submitted to the Executive and the committee under sections 24 and 24A".

This, Mr Speaker, is related to clause 24A, which put a requirement on the Executive. Once again, this is something that already has been identified and set up in the interim Territory planning legislation which was approved by this Assembly recently. I think it is appropriate for it to go through.

It requires the Executive to have regard to any recommendations of the committee of the Assembly before it makes its final decisions. That is really what this process is all about. The Executive, in fact, should wait for the committee to make its comments and recommendations before making its final decision, otherwise it makes a whole nonsense of the committee process. That is why I believe that this amendment is required and should be supported.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.02): Mr Speaker, the Government opposes this. It, again, is part of this tactic. I am starting to think that it is a tactic of slowing down everything that happens, of blocking movement. It is going to be one of many measures in these amendments that are just going to stop this city.

Question put:

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

The Assembly voted -

AYES, 10	*NOES, 7*
Mr Collaery	Mr Berry
Mr Humphries	Mr Connolly
Mr Jensen	Mr Duby
Mr Kaine	Ms Follett
Dr Kinloch	Mrs Grassby
Mr Moore	Ms Maher
Mrs Nolan	Mr Wood
Mr Prowse	
Mr Stefaniak	
Mr Stevenson	

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Clause 26 agreed to.

Clause 27

MR JENSEN (6.05), by leave: I move:

Page 15, line 4, paragraph 27(a), omit "and".
Page 15, line 5, after paragraph 27(b), add the following word and paragraph: "and, (c) submit the draft variation and all the background papers to an appropriate committee of the Legislative Assembly.".

This relates to the provision of information in relation to the revival of a deferred draft plan variation to an appropriate committee of the Legislative Assembly. I have put arguments in relation to this before. When the authority, in compliance with an Executive direction, defers a draft plan, they are then required to do certain things. I am suggesting that they then should resubmit the draft variation to the Executive and we believe that it is appropriate for them to resubmit it to the committee to allow the committee to consider it. In most cases like this there will be substantial changes and therefore it is important to allow the committee process to continue accordingly.

MR KAINE (Leader of the Opposition) (6.06): Mr Speaker, I think that, since this relates to the revival of a deferred draft plan variation, it is not necessary that it be referred specifically to an Assembly committee. I propose an amendment to Mr Jensen's amendment. I move:

Omit all words in proposed paragraph (c), substitute "advise the Legislative Assembly.".

Mr Wood: I want to see that amendment, please.

MR SPEAKER: Certainly.

MR KAINE: Mr Speaker, perhaps I may speak to that amendment while it is being copied. I think that in a situation such as this it is adequate for the Government simply to inform the Assembly that it has taken this action. The committee, if it is on top of what has been going on, will be well aware of what it is all about. The committee can take on a reference if it so chooses, and it has the opportunity then to pick up this particular point and look at it if it believes that it is necessary. I do not think that it is useful to require the authority or the Government to inform an Assembly committee every time it changes its mind on something. Informing the Assembly itself ought to be sufficient.

MR JENSEN (6.08): The Rally accepts that proposal, Mr Speaker.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.08): Mr Speaker, I have not seen the form of words that Mr Kaine has moved. If I get the first copy of that amendment I may be able to respond.

MR KAINE (Leader of the Opposition) (6.08): The words are simply "advise the Legislative Assembly". It does not seek the submission of draft variations and background papers.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.08): Okay, that is fine. The Government will accept Mr Kaine's amendment.

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

Amendments (**Mr Jensen's**), as amended, agreed to.

Clause, as amended, agreed to.

Clause 28

MR JENSEN (6.09), by leave: I move:

(1) Page 15, line 13, omit "and".

(2) Page 15, line 14, after paragraph 28(1)(e) add the following word and paragraph:

"and, (f) a copy of any report or comments made by Committee of the Legislative Assembly.".

The first amendment is to paragraph 28(1)(d). The second requires a copy of any report or comments made by a committee of the Legislative Assembly to be included in the documentation that is laid before the Legislative Assembly.

There may not necessarily be a report produced by the committee. The committee may respond, as the Public Accounts Committee does, by providing a recommendation or making a simple statement to the Assembly saying that they do not have a problem. In this case I think it is appropriate that such comments made by the committee to the Minister should be tabled as part of the documentation that is placed into the Assembly when the variation is signed by the Government.

MR KAINE (Leader of the Opposition) (6.11): I find this rather curious because we have already provided that the Assembly committee will be given copies of variations for their consideration before the Executive makes its decision. The way that committees respond to that is to report to the Assembly. If we adopt this, the committee will report to the Assembly, that report will go to the Government, the Government will take it into account in making its Executive decision, and it then will be obliged to come back and table the report again.

Since the committee has already reported to the Assembly, I see little point in asking the Government to resubmit that report to the Assembly. It is already before the Assembly and it seems to me to be a waste of time, printing and effort to require the Government to resubmit it. I suggest, Mr Speaker, that this is a rather pointless amendment.

MR JENSEN (6.12): May I clarify something before Mr Wood speaks? I think it is important to remember that the information that is tabled in the Assembly, something along the lines of this, does not just stay in the Assembly; it goes out to quite a lot of people. This is the approval of the variation to the plan. I think it is appropriate that, if there is a letter from an Assembly committee, or a report that makes a comment on it, that be formally required to be included in the documentation that is tabled in the Assembly, because all that documentation is then available for someone who wants to look at it. It is a package; they do not have to go chasing elsewhere for it.

Mr Wood: It is available before that as well.

MR JENSEN: No. The report of the committee, or a letter from the committee to the Government, is not required at the moment to be included in this documentation. That is all I am saying.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.12): Mr Speaker, I take Mr Kaine's point. This is going to add to the expense. It really is a further pointer to the confusion, almost, that all this exercise, all these amendments, is going to add. The Government opposes this.

Amendments negatived.

Clause agreed to.

Clause 29 agreed to.

Clauses 30 and 31, by leave, taken together

MR SPEAKER: The question is: That clauses 30 and 31 be agreed to. There are no amendments.

MR JENSEN (6.13): In fact, there should be, Mr Speaker, because this is defined land and I think - - -

MR SPEAKER: There is no amendment. There is no need for anyone to speak to them; they just vote that way. They can speak if they wish, of course; but there is no need to speak. There is no amendment before the house.

Clauses agreed to.

Clauses 32 to 34, by leave, taken together, and agreed to.

Clause 35

MR JENSEN (6.14): I thought I proposed to delete this whole subdivision.

Mr Kaine: You did, but we voted against you.

MR JENSEN: You were talking about clauses, Mr Speaker. My amendment was to omit the subdivision and we did not get to that.

Mr Kaine: Yes, but we voted to leave them as they are.

MR SPEAKER: You can delete subdivisions a clause at a time, surely.

MR JENSEN: Well, it would have saved a lot of time if we had dealt with the subdivision in one hit, Mr Speaker, I would have thought, instead of having to go through the whole thing. You could have taken them all together.

MR SPEAKER: Well, Mr Jensen, please advise me what you want me to do. I asked for your opinion as to whether you wanted the clauses treated together and you said yes. Now the question is: That clause 35 be agreed to.

MR JENSEN: My amendment No. 30 relates to clause 35 and seeks to add a new subclause which reads:

> The Authority shall perform its functions in consideration of any advice received from the Planning Advisory Committee established under Division 4A.

I think, Mr Speaker, that probably we have to defer this one until we make a final decision in relation to the addition of a proposed new division in Part II, my amendment No. 43. It relates to that. I think we need to defer this.

MR SPEAKER: Do you propose that this be postponed?

MR JENSEN: I propose that my amendment No. 30 be postponed until a later hour. Is that what you want me to say?

MR SPEAKER: Consideration of clause 35, I would suggest, Mr Jensen. Is that acceptable to you?

MR JENSEN: Yes, I am quite happy for it to be taken after amendment No. 43 because it is related. I move:

> That consideration of clause 35 be postponed.

MR KAINE (Leader of the Opposition) (6.16): I suggest that the postponement of this clause would serve no useful purpose. I think that the proposed new division which this relates to and which Mr Jensen seeks to incorporate will not be incorporated when the time comes, so it might be just as easy to deal with the clause now and be done with it.

Mr Collaery: I raise a point of order. I do not think it is proper to anticipate - - -

MR SPEAKER: Order! Mr Collaery, you can speak to the motion.

MR COLLAERY (6.17): Our view is that we should adopt the practice we followed in the human rights Bill, as it was termed as it went through, and postpone consequential provisions that depend upon a principal amendment. Amendment No. 43 is to insert a new division in the Bill and that has not been resolved by the Assembly.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.17): It only postpones the inevitable. We do not support such a body. As I understand it, the Assembly will not support that body. It may as well be dealt with now. If you wish to debate it and to debate all the ramifications, let us have that debate now, and we can deal with it.

MR COLLAERY (6.17): Okay. Mr Speaker, I think that for one of the first times in this Assembly we have seen machine politics clearly illustrated. Both the Liberal Party leader - - -

Mr Kaine: I take a point of order.

MR COLLAERY: What is wrong with that?

MR SPEAKER: Order, Mr Collaery!

Mr Kaine: Because a member expresses a view about a particular clause, that says nothing about machine politics.

MR SPEAKER: That is not a point of order.

Mr Kaine: I am speaking to his statement and I do resent his continued insinuation.

MR SPEAKER: All right; well, please speak to that.

MR COLLAERY: Mr Speaker, we hear Mr Kaine often referring to disruptive elements of the Rally. He was happy to rely upon them when he wanted government, and, Mr Speaker - - -

Ms Follett: I raise a point of order, Mr Speaker. Does Mr Collaery have leave to speak?

MR SPEAKER: Mr Collaery is addressing the question before the house, Ms Follett.

MR COLLAERY: Thank you. I note that the Chief Minister stands to defend the Liberal leader. The fact is that, with none of his own party members in the chamber, who may not have heard the arguments for why we believe that there should be a planning advisory committee, Mr Kaine assumes that the idea of a committee will not be supported. Perhaps there is now a Liberal caucus to reflect the Labor caucus. Be that as it may, it is somewhat of an affront to be told in this Assembly, that we believe contains people who are willing to listen and who are open to argument, that we are going to lose an argument down the track before it has even been enunciated by my colleague Mr Jensen.

I simply want to put that matter on the record. We now know what the vote will be. We will call for a division on this and that may shorten the end time, but it seems a peremptory party machine way of pressing a matter and obscuring meaningful debate in this chamber.

MR KAINE (Leader of the Opposition) (6.20): Mr Collaery has obviously debated this matter within his party machine and come to a conclusion. He believes that this clause should be incorporated into the Bill. I have gone through the democratic process of a discussion with my party members and we have decided that we do not want it in the Bill. That is a position that I am entitled to adopt, as party leader, and I resent being told that this is a party machine. He has gone through the same processes, I submit, as I have, to arrive at his position.

If we are going to talk about party machines, we had better start talking about the party machine of the Residents Rally that is attempting to bludgeon through the Assembly an amendment that nobody else in the Assembly wants. I foreshadowed that Mr Jensen's motion would fail. We will just have to put it to the vote and see whether my prediction is correct.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.20): I am, as I understand it, speaking against the motion of postponement. This makes me wonder about Mr Collaery's intentions and whether he really wants this legislation up at this time of the Assembly or not. He must have known, when he jumped to his feet and used those inflammatory terms, that it would spark a debate that we do not need, right now, when all we want to do is get on with this legislation.

Mr Collaery, you have been part of the discussions. You know that all members of this Assembly are negotiating and talking to each other about what is agreed and what is not agreed. You know that I have been doing this now for some time. You are negligent in that because your party has been the slowest of all in coming back to me and has created quite severe difficulties in dealing with this. To stand up and talk about machine politics is absolute nonsense and, as you have found out, is resented by all. Let us defer this now. Let us get back to the debate about an advisory council. Then we can get on efficiently, shortly, with subsequent clauses, and get this Bill done - if it is your intention ever to get this Bill through this house.

Question resolved in the negative.

MR JENSEN (6.22): Mr Speaker, I move:

> Page 18, line 25, add the following subclause:
>
> (4) The Authority shall perform its functions in consideration of any advice received from the Planning Advisory Committee established under Division 4A.".

We will have a debate about the need for a planning advisory committee. I presume that is what we are about.

Mr Speaker, provision for a planning advisory committee has long been the policy of the Residents Rally. It was put in the Residents Rally's policies on which we stood at the election. Just in case there is any worry about it, I had better read it into the record. Mr Wood seems to think, for some reason or other, that our decision or our requirement to have this planning advisory committee has something to do with party machines. What my colleague Mr Collaery was talking about was the apparently pre-emptive nature of the response. In the past we have adopted a practice of passing over clauses like this and then coming back to them later on. I think that is really what my colleague was talking about.

The Rally policy on planning quite clearly said:

> The requirement for community consultation and the Liaison Section to be included in the legislation that establishes the Territorial Planning Authority.

It went on to say:

> The Territorial Planning Authority is to establish a Community Consultative Committee which is to include representation from peak community groups, the conservation movement, professional planning organisations, social welfare groups, the unions and the ACT Administration.

Mr Speaker, that is Rally policy, and all we are seeking to do is to incorporate that into this legislation in accordance with our policy. The information in my amendment No. 43 comes out of the legislation that was approved by the Alliance Government and was about to be tabled in the Assembly at that time.

It is very interesting now to see that the Liberal Party appears to have changed their tack on that. Clearly, it had the support of the Alliance Cabinet; otherwise it would not have been included in the legislation. As we all know, the Rally did not have a majority within the Alliance Government. We were only a part of the Alliance Government. So, at some stage or other the rest of the Alliance Cabinet must have agreed to this provision being included in the legislation, and it was; and, of course, it was subsequently taken out. Mr Kaine shakes his head, but it was there. It was in the legislation that was about to be tabled in this Assembly prior to the change of government.

We now find that Mr Wood has looked at the legislation, and this is probably one of the few substantive changes that have been made to the legislation that was proposed by the Alliance Government - that I have been able to find anyway. I think it is important to put that on the record. What we are really talking about is a planning advisory committee that provides assistance and advice from the community at a high level.

Mr Wood: No, you are not. You are not talking about that at all.

MR JENSEN: That is exactly what I am talking about, Mr Wood. I am talking about certain groups within the community being represented on that body - town planning, architecture, engineering, landscape architecture.

Prior to self-government I was involved in a similar sort of organisation, the only difference being that it was a non-statutory organisation. All we are seeking to do by this proposal is to establish, by statute, that organisation in accordance with our policy. I served on that committee, which was a community consultation group, as the chairman of the Tuggeranong Community Council, in

conjunction with representatives from the Conservation Council, ACTCOSS, et cetera. It had representatives of the unions as well. All we are seeking to do is to formalise that process, which I believe was operating quite effectively and efficiently.

It was an unpaid organisation. My amendment provides for remuneration, but it is really up to the Government to decide whether it needs to pay remuneration to an organisation like that. What we are providing for is a council to advise the Minister and to advise the Territory Chief Planner on planning issues. This Territory is littered with this sort of organisation. Mr Wood has one for his arts group. They provide him with advice on arts. I do not think it is inappropriate in an area that is as important as planning is to the ACT. In view of the need to retain, maintain and develop the nature of the city and the Territory Plan, I do not think it is inappropriate for this process to be gone through. That is why we have proposed that this group be put into the statute.

As I said, I am disappointed that it would now appear that the Liberal Party has stepped away from this very important part of the process of consultation with the community. It may well be that, because of this organisation and its involvement in the planning process, some of the changes proposed by the Planning Authority and the Government will have gone through a process of discussion; that some of the concerns and problems will have been ironed out in this forum. We may find that the community will be much more prepared to accept the planning decisions that are coming out because they have been involved at the higher level.

I am not talking about this organisation or committee being involved in individual items and individual locations. I am talking about a body that provides general advice to the Minister, for example, rather than looking at specific matters in relation to design and siting. This committee, just prior to the commencement of self-government, were about to look at the community part of the NCDC operation and advise on what we believed should have been included in design and siting guidelines. That is really what we were all about. That is what we were on about. That is the level of decision making that we were talking about.

I think that is important, and that is why we fully support, and will continue to support, this amendment. A Rally Planning Minister, I am sure, will eventually introduce this process into the ACT.

MR KAINE (Leader of the Opposition) (6.29): Mr Jensen seems to be under somewhat of a misapprehension about the status of this Bill when the Alliance Government lost office. I have a copy of the final draft of that Bill as it was before we lost office. It is not the same in every detail as the one that is before us now, and in fact it never did go to the Cabinet. So, this document did not

have Cabinet endorsement before we lost office. Anything in here is a matter of debate, and would have been a matter of debate in the Cabinet had we remained on the fifth floor.

In connection with this particular matter that Mr Jensen is so hot on, what we are trying to do at the moment is get into place an Act that will streamline and simplify the planning process. As part of that, we have already agreed that the Assembly and its committees will be included in that process, and there will be plenty of scrutiny of what the Planning Authority and the Minister are planning to do. Mr Jensen is suggesting that we now set up a whole new hierarchy.

Mr Jensen: So, we are going to abandon every advisory committee in the ACT?

MR KAINE: No. We are not talking about every other advisory committee. We are talking about a particular one that you want to get on the books. Let us be clear. During your remarks you talked about advising the Minister. Your own document that you want to incorporate in here does not say that it advises the Minister. It says, at proposed new section 49C, that it advises the authority. It does not say that it advises the Minister at all.

Mr Jensen: Yes. The Minister is going to take note of that, isn't he?

MR KAINE: Read your own document. It does not say that it advises the Minister; it advises the authority. You propose giving it very wide-ranging powers, either at the authority's request, or of its own motion, to advise them about matters relating to planning in the Territory. That is any matter; any matter at all.

Mr Collaery: But it is only advisory.

MR KAINE: Well, you are setting up a whole new mechanism. One of the things that your proposal lacks is any reference to a secretariat for this body. You have not told us whether you will provide a secretariat or not, and what that is going to cost; and we are talking about cost here. We already understand that putting this Bill into effect - I have said it before - is going to impose a significant cost on the taxpayer.

Mr Jensen: Did you forget about that?

MR KAINE: If you want a one-to-one debate on this, Norm, we will go outside and do it; but you have had your say. Why don't you let me have mine? We will get into a one-to-one debate somewhere else.

The fact is that you are proposing an advisory body which itself is going to attract cost because you say that the members shall be paid remuneration. So, it is not a voluntary advisory body - it is not a freebie for the

Government and the community; it is going to be paid for - and, as I say, you have left out any reference to a secretariat. If you have a body such as this, you can bet that it is going to need a secretariat; so, it is not a cheap item. We are talking about a Bill, hopefully, that will minimise the cost to the taxpayer rather than maximise it.

So I am not convinced that such an advisory body is needed. It would be nice to have. If we had unlimited funds, it certainly would be nice to have. At some time in the future, when the economy of the Territory is stronger and we believe that the taxpayer can afford to carry the cost of such a body, it might well be something that we would put in place. But I do not see that there is a need for it now, and for that reason I oppose it at this stage.

I strongly refute any suggestion that the Liberal Party has changed its view on this. The Liberal Party, I remind Mr Jensen, was one of three parties in an Alliance Government, and the final draft of the Bill, as it was when we left the fifth floor, represented the views of the Alliance Government, not the Liberal Party. It speaks for itself, Mr Jensen, that the people who are loudest in proposing this particular aspect of things are members of the Residents Rally.

Let us be clear; it does not represent any change of position from the point of view of the Liberal Party. We are now not bound by an attachment to the Residents Rally to do their bidding; we are free to express a different view, which I do. I repeat that, if and when we think that it is a valuable thing to do and it is something that we think the taxpayer is prepared to pay for, we will review our position on that matter.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.35): I think Mr Jensen, on this issue, is out of touch with the community he purports to represent. The proposal for such a committee was rejected by all sectors of the community in the first round of public consultation. At that time the committee was to have up to 15 members drawn from the community and professional organisations.

Mr Kaine: There was a list of skills as long as your arm, not just four.

MR WOOD: Indeed. I would remind Mr Jensen that the proposed committee was rejected because it was seen to undermine the extensive and open consultative mechanisms provided throughout the Bill. When the legislation was released for a second round of consultation the concept of a planning advisory committee had changed to a five-member professional advisory body. Again, in the consultations, the value and role of this body were brought into question.

The fact is that there are ample opportunities for professional bodies to put their views to the Planning Authority, either in the context of public consultation or at any other time. There is really no support or justification for a statutory committee.

The Government stands for smaller government rather than bigger government, and Mr Jensen wants to put in more layers of bureaucracy. I am not even sure that he is quite clear what he wants. The amendments, which now I hope will not be debated shortly, suggested that this committee be of five members, no more than five members. Then he proposes, amongst those five members, that the following disciplines be represented: Town planning, architecture, engineering, landscape architecture. So, he has covered four of his five members. He asserts, however, that this is for the community. Well, the committee proposed here is not for the community. He spent 10 minutes talking about how the community needs to be represented in a body that he does not intend them to be represented on. So, there is quite a deal of confusion about what he wants.

We know what we do not want, and that is unnecessary layers of government. We are not talking about advisory committees to the government on functions where it is appropriate; we are talking about a major part of government business in this Territory that once again we see evidence that Mr Jensen simply wants to clog up.

MR COLLAERY (6.37): Mr Speaker, I rise to accept philosophically Mr Kaine's comments. Of course, decisions taken in Alliance configuration are not necessarily explicable in a single party context. Of course, Mr Kaine is correct in saying that, whilst a concession may have been made in a coalition arrangement, it may not necessarily apply freed of those arrangements. We frankly concede that, although this proposed committee was in the final draft.

Let us go back to the whole basis of it. The original basis was to ensure that the authority itself got some specialised planning advisory support. It was meant that way. The community, when it was first proposed, thought that that body would supplant community consultation, and the Rally at that stage got cold feet on the idea in its own Bill in government. But when the concept of the committee was refined in the first, second, third or umpteenth draft that we all saw, we saw this as a manner in which those professionals, who often feel frustrated about their input and do not necessarily belong to community groups, could advise the Government directly. It was on that basis, and pursuant to the Rally's platform, that we pursued this.

My colleague Mr Jensen reminds me that we made a policy decision a week ago or more, under some pressure, to add landscape architecture to proposed clause 49G(d), but we omitted at the same time to increase the membership to seven as we intended. Let the record show that; that

pressure has resulted in that oversight. I simply put on the record the fact that we knew that there was some reluctance in the Liberal Party about this proposed committee. It just happened to be a position that was arguable. We put some weight on the Chief Minister's comments in her government direction statement in this house on 21 June 1991. Let me read it into the record. The Chief Minister said, as recorded at page 2286 of *Hansard:*

> My Government will listen to the community and will learn from the community. Some would argue that in government a commitment to consultation and openness are optional extras, icing on the cake as it were, and incompatible with decisive government. This is clearly not the case. Indeed, it is only when a government is fully informed by community views on an issue that it can take decisive and forward thinking action.

The Chief Minister went on to say:

> Mr Speaker, no doubt some people will say that my model of open, consultative government is inappropriate in Canberra's current economic circumstances.

We have heard both Mr Kaine and Mr Wood adopt the economic rationalist argument - that here is another expense in the process. But here is an ethic advanced by the Labor Party that is absolutely antithetical and contradictory to what Mr Wood just said, and I criticise the Labor Government for that. I do not attack the Liberal Party for its position. It has been consistent on low levels of bureaucracy even though we did not make substantive inroads into that in government.

Mr Kaine: No, you just employed too many people, Bernard.

MR COLLAERY: Indeed, Mr Kaine interjects. Ms Follett went on in her directions for government - the Government she still leads - on that day. As recorded at page 2288 of *Hansard*, she said:

> We all saw the outcry against some of the Alliance's proposals. The earliest objectives for the planning and land use legislation were set by my Government in 1989. It is fundamental that all sectors of the ACT community be given equal opportunity to have an effective voice in how our city is planned and developed and to ensure that our unique environment is fully protected.

She went on to give further assurance. Eminent professional groups are going to read this *Hansard.* We will make sure of that. Town planners, architects, engineers and landscape architects have been prominent in recent

planning issues and have provided much strength to the planning of this city. We are going to ensure that they will read that this Labor Government has once again gone back on its testament that it gave us, and its commitment on 21 June, and has joined those conservative reactionary forces.

Day by day we can only stand amazed as the Labor Party continues to fall under the sway of those backburner, tag-along instincts of a party that has lost all connection with what the community wants. I can tell you, through you, Mr Speaker, what the people want at the polls. They want a government - - -

Mr Wood: You do not want this legislation through; you are beginning to filibuster.

MR COLLAERY: You have one last chance. The Labor Party have one last chance to support a planning advisory committee to support the issue.

Mr Wood is one of the best debaters in this house. He is very shrewd and he will sway many juries. But, you see, we are not the average jury, as Mr Wood knows. We were not taken in by Mr Wood's reference to the early consultation comments - that the community groups were wary of a 15-person advisory committee that they perceived at the time would exclude them - and the refined concepts following the consultation for there to be a professional planning advisory committee to give support to the authority.

Mr Wood used one premise to argue another. It is a very shrewd device. It works well in front of a jury. I say to Mr Wood, through you, Mr Speaker: When people read this transcript - indeed, we will ensure that they do - you will not sway them. You have gone along with a closed door arrangement to keep them.

Mr Wood: This is a filibuster.

MR COLLAERY: Mr Wood, by his interjections, is desperately anxious to get this Bill through. We should not be churlish about the extra few minutes when considering the planning of this capital city through the twenty-first century, may I suggest to Mr Wood.

Finally, I want to defend my colleague Mr Jensen. He was referred to as being negligent, in the party sense, in bringing forward all these amendments. Mr Jensen is working on these issues, here or at his home, day and night.

Mr Wood: Aren't we all.

MR COLLAERY: The fact is, Mr Wood, that he is in no different a situation from yours. We would not suggest that you were being negligent on these issues, and we would suggest that you refrain from casting those aspersions this way. We are committed, we thought equally, to the future of the city. Clearly, the Labor Party is not. The Chief Minister smiles. Let the record show "smile".

Mr Berry: She is laughing at you.

MR COLLAERY: She is laughing. Fine. More votes.

MR MOORE (6.45): Mr Speaker, I rise to oppose this amendment. The reason is not that I oppose the concept of a planning advisory committee, because I think a planning advisory committee does have a place. I think that the appointment of this planning advisory committee under the legislation is not necessary. I was tempted, Mr Speaker, to take us back to November 1989 when Mr Collaery, still in a fit of pike because of the fact that I had left the Rally, was - - -

Mr Collaery: Pique.

MR MOORE: Mr Collaery interjects "Pique". No, I see Mr Collaery as a piker. The point, Mr Speaker, is that, in reading back through the motion for a proposed environmental advisory council, the speech of Mr Collaery is indeed full of emotion. I suppose that, if we were to go back and look at my own speeches at that time, one would also find them full of similar emotion and vitriol as well. Perhaps it may do well then not to revisit those. However, I think that we must avoid losing the concept of a planning advisory committee because the concept is a quite good one. I think that it is important for this Minister and future Ministers to establish a planning advisory committee to get the best advice they can from qualified and appropriate members of the public.

So, whilst I do not support having it in this legislation, I do think that a planning committee is a good idea, and I would strongly recommend to the Minister that he consider that as a possibility. I appreciate the interest he is paying at the moment. It is, I think, appropriate for him to ensure that he gets the advantage of the expert advice that is in the community, but not necessarily through providing that in legislation.

Amendment negatived.

Clause agreed to.

Clauses 36 to 41, by leave, taken together, and agreed to.

Clause 42

MR JENSEN (6.48), by leave: I move:

Page 19, line 32, omit "Minister", substitute "Executive".
Page 20, line 3, omit "Minister", substitute "Executive".

These are very simple amendments. We are proposing, in both these subclauses, to omit the word "Minister" and substitute the word "Executive". I will speak very briefly on this, because my colleague Mr Collaery wants to make some comments.

We believe that an appointment to a position as important as this should be made not just by a single Minister but by the Executive; that is, by at least two members, as it is currently set up. I would expect that an appointment as important as this would probably be made by the Cabinet meeting as a whole. It may be that the instrument signed to appoint the Chief Planner would be signed by two Ministers. The Rally believes that because of this it is important for the Executive, and not just the Minister, to appoint the Chief Planner. On that basis I hope that the members of this Assembly will approve these amendments.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.49): Mr Jensen began by saying that these are simple amendments and I agree, if we use one of those dictionary definitions for "simple" meaning "silly". We all know the practice of things. We all know that over and over again in our legislation we see the words "the Minister shall". We all know that in a case like this, especially a significant case like this, I take matters to Cabinet - not just to the Executive, but to Cabinet.

Mr Moore: Yes, but we might have another Alliance Government, and what a disaster that would be.

MR WOOD: Well, Alliance governments are few and far between. I do not think this makes any practical change to anything at all. These matters will be attended to by Cabinet and the Minister will then go away and formally carry out what the Cabinet agrees. Here and there in legislation, I understand, you may see "Executive", and that is in matters where perhaps commissions are appointed, or quite significant things.

I understand the importance of the measure here in this clause, but the reference to "Minister" is simply routine. It does go through Cabinet. I do not think, short of changing a large number of Acts, Mr Jensen, that there is any sense at all in this. It is simply not required. It makes me wonder about the intentions of the Rally; tying down things like this, tying up debate. More and more I just do not know how serious you are about getting this through.

MR COLLAERY (6.51): Mr Wood is determined to find some sinister motive in everything my colleague Mr Jensen is doing. The fact is that at a late stage in legislative drafting in the Alliance Government we ensured that, wherever appropriate, it said "Executive" in legislation, so that the practice of the Cabinet making these decisions, such as appointing a Territory Chief Planner, was reflected in the legislation. So, the "Executive" was pushed into legislation in that context.

I need to say that the caucus machine might be that tight for the Labor Party; but the Labor Party, of course, never forms coalitions. It has not formed a coalition government since 1908. Those of us on this side of the house do not have that iconoclastic approach - I will spell that for Mr Berry - and therefore the term "Executive" suits coalition governments. It ensures that one Minister of one persuasion will not necessarily make the decision. It simply reflects a Cabinet process.

If the Labor Party are going to tell us today that they are going to appoint a Chief Planner without a Cabinet decision on it first, I would be amazed. Why should the legislation not reflect that practice? It is not a major issue. It is not a matter that we in the Rally are going to die in a ditch over. It is not a Rally agenda item, necessarily.

By the same token, why is the Labor Party so closed to what started to become more of the practice in the Bills we introduced in the latter stages of our Government? It is not a foregone conclusion, by any means, that the Labor Party are going to get to administer this Act after next February, and I think it is in our interests to ensure that it is "Executive", so that it lends itself to cabinet-style government, not caucus government.

MR KAINE (Leader of the Opposition) (6.53): Mr Speaker, I have sympathy for Mr Collaery's viewpoint, but I think he is confusing the decision making process about the appointment of a Chief Planner on the one hand and the appointment of the Chief Planner on the other. I do not disagree, even for a moment, that in the Alliance Government we did, and in a future Alliance Government we will again, consider the selection and the appointment of such a statutory officer as a commitment and a requirement of the Executive. But when it comes to actually appointing a planning officer or a statutory officer, I think that it is sensible.

I am not too sure how the Executive appoints such a person anyway. I think it is a responsibility of the Minister because it is the Minister who ultimately is going to issue directions and do all of the things that are necessary in an executive way to make sure that this statutory officer, or any statutory officer, does what is expected of him.

I have to take a different view from Mr Collaery and say that, in the decision making process, yes, it is an Executive responsibility; but, when it comes to issuing an instrument to appoint such a person, I really think that it is the responsibility of a Minister.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.55): Mr Speaker, I simply want to reaffirm what I said before and give you a practical example. Very soon the Government will be deciding who the next Chief Planner of the ACT is. It has been a six-month process finding that person. The appointment will be announced within a week or two. You would well understand that the Cabinet will consider that. A position at that level is one for the Cabinet. But, after the Cabinet has made its decision, the Minister will execute that decision, just as Mr Kaine says.

Amendments negatived.

MR MOORE (6.56): Mr Speaker, it will not take long to do this one, because there is agreement. I move:

Page 20, line 4, add the following subclause:

"(5) In the performance of his or her functions and the exercise of his or her powers the Chief Planner is directly responsible to the Minister.".

Mr Speaker, I believe that this is quite self-evident. It has been agreed by the Government. I think it is an appropriate way to go. It recognises the sorts of things that were debated a short while ago about the importance of the Chief Planner in our system. It ensures that the Chief Planner has direct access to the Minister and is not responsible through tiers of public servants.

Planning within this Territory will be recognised as an important function, at least equal to other functions that may come through other areas of the public service. The decision is not made by a series of public servants who have watered down an approach, but is the result of an approach directly made by the Chief Planner to the Minister. I think that in some ways it formalises a system that is already well under way.

MR WOOD (Minister for Education and the Arts and Minister for the Environment, Land and Planning) (6.57): Mr Speaker, in one respect Mr Moore's amendment annoys me. We agree to it, let me emphasise most clearly; but I can tell you that the Labor Party, in its deliberations on policy leading up to the next election, was working to where we would be incorporating this as one of the planks of our policy. So, you have taken our thunder a little, Mr Moore. We certainly agree with this. We think that that level of independence is a principle worth having. I need say no more. This will pass.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 43

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

ADJOURNMENT

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

> That the Assembly do now adjourn.

Assembly adjourned at 6.59 pm

ANSWERS TO QUESTIONS

MINISTER FOR HEALTH

LEGISLATIVE ASSEMBLY QUESTION

QUESTION 433

Belconnen Private Hospital

Mr Humphries - asked the Minister for Health:

1. What decisionhas been taken on the Alliance Governments plans to allow a major private hospital to be built in Belconnen.

2. What financial benefits would be enjoyed by the government if a major private hospital were to be built in Belconnen.

3. What effects would such a hospital have on waiting lists for Canberras public hospitals.

Mr Berry - The answer to Mr Humphries question is:

1. The Government has decided not to proceed with the private hospital.

2. If the public total bed day ratio stays above the Medicare Agreement penalty levels and there is no related reduction in provision through the public hospital system then no financial benefits would be enjoyed by the Government if a major private hospital were to be built in Belconnen. The only financial benefits would be those enjoyed by the owners and operators of the private hospital. Also competition for professional staff could also lead to additional pressure on salaries and fees.

3. The impact of a private hospital on waiting lists in public hospitals is likely to be negligible. The recent report into Hospital Services in Australia has shown that there is evidence that increasing elective admissions to public hospitals (and by implication to private hospitals) does not result in corresponding reductions in the number of people on waiting lists.

5461

MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 595

Urban Services Budget

Mr Moore - asked the Minister for Urban Services:

What proportion of -

(1) $7.628 million indicated in the Budget papers on Sub programme 16.6 (page 46) was applied to: (a) asbestos and (b) waste management.

(2) $1.776 million identified as Repairs and Maintenance, Minor New Works and Plant and Equipment went to (a) asbestos and (b) waste management.

Mr Connolly - the answer to the Members question is as follows:

(1) (a) 36.8

(b) 63.2$

(2) (a) 24.5

(b) 75.5$

5462

COPY
MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 603

Urban Services Portfolio - Consultants

Mr Kaine - asked the Minister for Urban Services:

(1) in the period from 7 August 1991 to 31 October 1991, what consultants were employed by (a) the Minister; and (b) each agency in the Ministers portfolio.

(2) For each consultant employed, what was (a) the purpose; (b) the duration; and (c) the cost of the consultancy.

Mr Connolly - the answer to the Members question is as follows:

(1) In the period 7 August 1991 to 31 October 1991

(.a) Nil
(b) See attachment for details

(2) See attachment for details.

5463

CONSULTANT PURPOSE DURATION COST

ACTION

Coopers and Lybrand Development of ACTION Information Technology Strategy 2 months $45 000

ACT FIRE AND EMERGENCY SERVICES GROUP

Harris Van Meegen Development of OH & S training package 6 days $3 000

CORPORATE SERVICES BUREAU

ACT Government Computing
Service Technical advice to HMS Unit 28 days $11 844
Computing Science of
Australia Network consultancy for HMS 9 days $5 760

.Computing Science of
° Australia Senior Project Management for HMS Unit 14 1/2 days $14 500

A Osta Contract negotiations for HMS Unit 3 days $1 920
Reid TAFE Effective Writing Course 4 days $3 736
Reid TAFE Advanced Writing Course 2 days $1 868
Consultel Restructuring of Voice (telephone audit system) 2 months $80 000
Greg Murphy Pc/Lan/Wan Support 3 months $31 000
Greg Mills & Associates Voice & Data Communications 6 months $31 000
Computer People Development and maintenance of network 3 months $30 000
DER Contract employment ACTGS 6 months $70 000
Tocumwal Computing Service PC/Lan support - analysis & presentation of Lan proposals 6 months $60 000

ACT ELECTRICITY AND WATER

Aquatech Pty.Ltd Review of water quality at LMWQCC 7 weeks $10 000
Envirocon Consulting
Engineering Seconary Treatment facilities review,
of hydraulic capacity 1 month $6 500
Erldunda Associates ACTEW Electrical Standards develop & document
policy on bushfire aspects of risk management 4 1/2 months $5 700
R Howard & Associates ACTEW Electrical Standards develop & document
policy of bushfire aspects of risk management 1 1/2 months $5 700
Clark Hummerston OH&S review current priorities, drafting policy, .
planning mechanisms, appropriate performance
indicators 1 months $7 500
State Electricity Commission
Victoria All-in-One - examination.of AWACS cost benefits
cost benefits 2 days $10 000
Techway Solutions Pty Ltd Develop computerised data retrieval system for
discharge licence compliance 2 months $16 465
Therrel Pty Ltd Stromlo Water Treatment fluoride design equipment
electrical specifications 1 week $9 275
Towers Perrin Forster
& Crosby Review structure & functions of Human Resource
Division 6 weeks $7 000
Towers Perrin Forster
-& Crosby Job evaluation of SES Level positions - Phase 1 9 weeks $

13 000

PUBLIC WORKSAND SERVICES

Management & Technology
Consulting Formulate and implement strategies relating to client focus 5 months $20 000
Australian Software Solutions Pty Ltd Implement computerised Plant & Fleet system 6 months $17 177
Random Computing Services Pty Ltd Development and support of financial management systems 3 months $24 000

CITY SERVICES

Bill Guy & Partners Evaluation of streetlight upgrade 2 days $366
GeoPlan Study of Traffic and Pedestrian Issues in Garran and Hughes 6 months . $24 363
01 CSIRO Review of Asbestos Program 2 weeks $26 500
Darryl Sheedy & Associates Review of Cemeteries Management Information systems 2 1/2 months $5 000

CORPORATE DEVELOPMENT GROUP

Juliana Madden Editing and desktop publishing services for 1990/91 Annual Report 1 month $5 070
Coopers & Lybrand Assist in preparation of DOS unitary financial statements 2 months $6 950
Coopers & Lybrand undertake an ACTGS Business Impact study 4 months $28 061
John Wilson staff selection services for SOY Estate Management 3 weeks $1 270
Brockway Pty Ltd Staff selection services for SE Band 2 3 weeks $1 540

Harris Van Meegen staff selection services for SOB 1 week $962
Barbara Davis update Tenant Occupation Register 2 1/2 months $8090

MINISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 617

Urban Services Portfolio - Consultants

Mr Kaine - asked the Minister for Urban Services:

Further to your reply to question no 525 of 9 September 1991, will you provide details of the specific tasks undertaken by the following consultants

(1) Management and Technology Consulting (payment of $20,000 for Preparation of Corporate Plan)

(2) C Heckler (payment of $55,000 for Guidance to the Future Directions project t in preparation for a Senior Executive Seminar)

(3) R Sommerville (payment of $208 for Selection interview scribing services)

Mr Connolly -the answer to the Members question is as follows:

(1) The consultancy provided professional services in assisting the City Services Group of the Department to develop the 1991-95 corporate plan. These services included:

- facilitating and monitoring the corporate planning process at unit and division level
- providing advice on the monitoring of the progress of the corporate plan
- providing recommendations advising on possible improvements to the 1991-95 corporate plan
- providing feedback on progress of the planning process

The corporate plan will provide the City Services Group with a valuable and accountable history of the Groups achievements in 1991-92 and an ongoing contribution to long term objectives and short term commitments

(2) Following the implementation of the new Department of Urban Services organisation structure that was agreed to by the previous Government, the next phase of the Chris Heckler consultancy was to report on strategic directions and service planning within the Department. The exercise also aimed to provide a management framework to improve efficiencies across the Department. The analyses covered a five year forward period, providing comprehensive information in determining broad strategic directions.

The final stage of the consultancy was to facilitate a senior executive retreat on 27 - 28 September 1991, at which papers on the findings were presented and analysed.

(3) Mr Sommerville assisted the Government Services Group in providing scribing services for interviews held for a Senior Officer position in the Group.

5468

MINISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 618

Urban Services. Portfolio - Consultants

Mr Kaine - asked the Minister for Urban Services:

In relation to the payment of $55,000 to a consultant for the purpose Guidance to the Future Directions Object in preparation for a Senior Executive Semmar

(1) Where was the seminar held.

(2) When was it held and for what duration.

(3) How many people attended.

(4) What was the cost of the seminar.

(5) If the seminar was not held, when will it be held.

(6) If the seminar is not to be held, why not.

Mr Connolly - the answer to the Members question is as follows:

The background to the consultancy is outlined in the answer to Question on Notice No 617

(1) The seminar was held at the Bandanna Conference Centre in Bundanioon, NSW

(2) The seminar commenced at 8.45 am on 27 September 199-1 and finished at 12 noon on 28 September 1991

(3) 14 persons attended the seminar

(4) The cost of the seminar was $2,202

(5) Not applicable

(6) Not applicable

5469

MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 629

Urban Services Portfolio - Consultants

Mr Kaine - asked the Minister for Urban Services:

With reference to your answer to question No 525 concerning consultancies to your portfolio, of the 25 consultants or consultancies listed, how many are ACT-based.

Mr Connolly - the answer to the Members question is as follows:

Of the 25 consultants or .consultancies listed 21 are ACT-based.

5470

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION No. 631

Commercial Leases - Floor Area Restrictions

Mr Jensen asked the Minister for the Environment, Land & Planning -

(1) How many commercial or business leases in the ACT have no restrictions on the gross floor area that can be constructed on the leased site.

(2) Of these leases, how many could, by application of the proposed Commercial Predominant Land Use Zone in the Draft Territory Plan, be capable of the construction of additional gross floor area above that currently on site.

(3) Would betterment charges apply to these leases under current arrangements or those proposed by the Land (Planning and Environment) Bill.

Mr Wood - the answer to the members question is as follows:

(1) All commercial leases in the ACT are restricted as to the gross floor area that can be constructed on the site. The restriction can be specifically mentioned within the lease, or can be determined de facto by the ACT Planning Authority in terms of relevant policies which would apply, the main one being the Design and Siting policies to which all buildings in the ACT are subject.

(2) It is not possible to identify how many commercial leases without explicit gross floor area restrictions could be capable of construction of additional gross floor area under the provisions of the draft Territory Plan, as this would require a detailed planning assessment of every affected site. Nevertheless, it can be said that the number would not be significantly different to that which would be possible under existing planning policies, and is likely to be less. The draft Territory Plan does not introduce significant changes to commercial area policies, but merely restates these in a more consistent manner which responds to the requirements of the proposed legislation. However, because of the introduction of public notification and third party appeal provisions in the Bill, the draft Plan has been more specific in most cases about what may be permitted in different locations and where public notification would be required.

(3) It is intended that the provisions of the City Area Leases. (Betterment Charge Assessment) Regulations will be incorporated into a regulation under the Land (Planning and Environment) Bill. Therefore; the current arrangements for assessing betterment charges for variations to leases to increase Gross Floor Area would not be affected by the Bill.

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