DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

8 April 1992

Wednesday, 8 April 1992

Wednesday, 8 April 1992

MADAM SPEAKER (Ms McRae) took the chair at 10.30 am and read the prayer.

PETITION

The Clerk: The following petition has been lodged for presentation:

By **Mrs Grassby**, from 5,208 residents, requesting that the Assembly reject any attempt to permit the establishment of a free-standing abortion clinic.

The terms of this petition will be recorded in *Hansard* and a copy referred to the appropriate Minister.

Abortion Clinic

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that:
>
> > ACT law prohibits free-standing abortion clinics;
>
> Your petitioners therefore request the Assembly to:
>
> > Reject any attempt to permit the establishment of a free-standing abortion clinic in the ACT.

Petition received.

FREEDOM OF INFORMATION (AMENDMENT) BILL 1992

MR HUMPHRIES (10.31): Madam Speaker, I present the Freedom of Information (Amendment) Bill 1992.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

Madam Speaker, the importance of the ACT's freedom of information legislation can be gauged, perhaps, by the fact that it took 10 years, two interdepartmental committees, a Senate committee and numerous fierce battles with senior public

servants before the first Australian FOI Act saw the light of day. Freedom of information legislation was introduced to protect the three basic principles of democratic government - openness, accountability and responsibility. This is why we need to review regularly our own ACT freedom of information legislation, to ensure that it lives up to its reputation as a weapon against secrecy and bad government.
This particular Bill is designed to close a loophole in the Territory's own freedom of information Act, a loophole that can be, and probably has been, used to delay the processing of requests for access to government documents. Naturally, Madam Speaker, oppositions rather than governments have a greater interest in legislation of this kind. Indeed, in the last eight or so months, the Liberal Party, in opposition, has had recourse to the freedom of information legislation fairly frequently.

This Bill seeks to close two loopholes which have come to my attention over the past few months. Madam Speaker, under section 14 of the existing Act, a person may seek access to documents which are covered by the operation of the Act. Under section 59, a person may seek the review of a decision made by an administrator to deny, or partially deny, access to documents under the Act.

At present an application is not a valid application unless it is accompanied by a $30 fee, in the case of an initial FOI application, or a $40 fee in relation to a request for a review of an FOI decision. The FOI Act does, however, provide for a remission of the fees and other processing charges where the application concerns personal affairs or is in the public interest or, alternatively, the applicant is experiencing financial hardship.

It is interesting to note, Madam Speaker, that the standard form issued by the ACT Freedom of Information Office - an office, by the way, which I must put on record I have found unfailingly cooperative and helpful in dealing with FOI requests - has a section which states that applicants can tick a box saying either that the fee has been enclosed or that the applicant is seeking a remission of the fee on particular grounds which are set out in the form. In other words, Madam Speaker, the Government does not make any attempt to conceal the existence of the capacity for people to seek a remission.

The form at no point makes it clear, however, that applications are not valid unless they are accompanied by a fee or until such time as a decision is made to remit the fee. It is possible for a bureaucrat to delay indefinitely a decision on whether to remit the fee or not. I note that timing is a very crucial question in FOI applications, in many cases. I refer to an article in the *Canberra Times* of 26 December 1990 in which it was suggested in a report on the ACT FOI Act that there was a lack of resources for supplying information under the Act, and that, of the 216 applications for information handled between 11 May 1989, self-government day, and 30 June 1990, only 65.3 per cent were processed within the statutory time limit, which is an unfortunate event and one we should be paying some attention to in the coming months.

As soon as an application that is accompanied by a fee is received, the ACT FOI Office has an obligation to tell the applicant within 14 days that it has received the request, and within 30 days the office is obliged to inform the applicant of a decision on giving the applicant access to particular documents. But, if the

request is accompanied not by a fee but by a request for remission, time limits are suspended. In a sense you could say, Madam Speaker, that poor applicants, for example, or public-spirited applicants, for example, are second-class applicants under our present legislation.

The problem becomes more acute in cases where applicants wish to exercise the right to have a decision reviewed. The Act provides for internal reviews, and applicants can request such reviews by paying a $40 fee. A review must be requested within 28 days of the applicant being told about the original decision. Applicants can again ask for remission of that $40 fee, and again the agency is under no time constraint to make a decision on the remission of the fee.

I know of one case where an applicant had put in a request for review of a decision well within the 28-day limit. The agency took several weeks to make a decision on whether to remit the fee, and by the time a decision had been made the 28-day period had long since expired. The agency had, in effect, killed off the request for review by sitting on its hands. The agency, I might add, had the cheek then to write back to the applicant saying that his request for review had been validated after the 28-day period had expired but they would, through the kindness of their hearts, proceed with the review. That is an unacceptable discretion, I think, Madam Speaker, to put in the hands of a bureaucrat. The Act requires a review of the decision to be made within 14 days - - -

Mr Berry: It sounds like an application from Gary Humphries. You mucked it up.

MR HUMPHRIES: No, it was not mucked up, Madam Speaker. It was an appropriate application and it was not processed because of a delay on the part of a department. It might even have been the Minister's own department; who knows?

Mr Kaine: He may have deliberately obstructed it.

MR HUMPHRIES: It may have been, Madam Speaker; I will not comment on that. An amendment to the Act is what we need. The Act requires a review of the decision to be made within 14 days; but, with the ability to stall on the decision to remit a fee, the agency in this case effectively gave itself a massive extension of time.

This Bill, Madam Speaker, is designed to close both of the loopholes I have just described. It does this specifically by adding two new subsections - one concerning initial requests for access to information and a second dealing with internal reviews. Section 14 of the principal Act is amended by adding a section which states that, where a person requests access to a document and the request is not accompanied by a fee but is accompanied by a request for remission of the fee, that request for access is to be treated as a formal application unless and until the agency tells the applicant that his or her application for remission has been wholly or partially unsuccessful. In other words, the clock starts ticking straightaway and there is no room for an agency to buy time by stalling on a remission decision.

The same applies to the amendment to section 59 which deals with internal reviews. That section is amended so that, where a person requests a review of a decision and the request is not accompanied by a fee but is accompanied by a request for remission of fees, the request is taken as formal unless and until the

agency informs the person that his or her request has been partially or wholly unsuccessful. Again, the clock starts ticking immediately and the agency cannot employ stalling tactics.

This Bill has been put forward to tighten up the Territory's FOI legislation. It will not impose any additional burden on the public service. After all, decisions on the remission of fees are hardly hard decisions. They should be made swiftly and should not impede or frustrate genuine requests for information by members of the public.

The Bill is also important as cost is a major barrier to people's access to information. The remission of fees is only part of the cost. People are legitimately seeking remission of fees because they are entitled to have remission of the processing charges - costs which can be very expensive. The charge, for example, for locating documents is $15 an hour, while the charge for agencies' decision making and consultation time is $20 an hour. There are charges such as 10c per photocopy, $12.50 per hour of supervised inspection, and special rates for services such as tape transcription and computer print-outs.

It is important that people and community groups have the access afforded by the freedom of information legislation, and they should not be penalised by seeking remission of fees on grounds of financial hardship when they are seeking information which is of a personal nature or where the issue is of public interest. Madam Speaker, I commend the Bill to the Assembly.

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

ELECTRICITY AND WATER (AMENDMENT) BILL 1992

MRS CARNELL (10.41): I present the Electricity and Water (Amendment) Bill 1992.

Title read by Clerk.

MRS CARNELL: I move:

> That this Bill be agreed to in principle.

I am sorry to have to raise this issue of water fluoridation.

Ms Follett: You have changed your minds again.

MRS CARNELL: I have not.

Mr Kaine: We have never changed our minds. We always supported fluoride in the water. Let us get it clear.

Mr Connolly: The sensible Liberals did. You had a few problems last time.

MRS CARNELL: Can I proceed now? As the interjections show, this issue plagued the last Assembly.

Mr Berry: Aren't you embarrassed? You ought to be embarrassed.

MRS CARNELL: No, I personally am not. It did nothing for the reputation of ACT self-government. I think that, if Mr Stevenson wanted to sow the seed of doubt in having self-government in the ACT, he has unfortunately been most successful on the issue of water fluoridation. It is my hope that we can get this debacle caused by the last Assembly finished with now.

This Bill will return fluoridation of water supplies to a permanent level of one part per million. For some months now the level of fluoridation has been set at 0.5 parts per million. It was intended last year that we return to a level of one part per million. Unfortunately, the Bill which would have carried forth this change, the Electricity and Water (Amendment) Bill of 1991, was amended by an amendment moved by Hector Kinloch. Dr Kinloch's amendment agreed to in August last year replaced the words "one part per million" with "0.5 parts per million". On this particular occasion there was a degree of consensus between the two major parties that Dr Kinloch's amendment be rejected. Unfortunately, in what was a reflection of the composition of the last Assembly, it was agreed to.

Mr Connolly: Some Liberals ratted.

MRS CARNELL: Look what happens to them. The situation now has changed. The major parties have 14 of the 17 seats. We are now in a situation where we can bring into effect what was originally intended last August, that is, legislation to make permanent one part per million of fluoride in Canberra's water supply.

Dr Kinloch, in moving his amendment, may have been overly infatuated with the work of the Social Policy Committee on the fluoride issue. The Social Policy Committee report on fluoridation recommended 0.5 parts per million. Although I would like to think that considerable work went into the committee report - it certainly took long enough to do so - its conclusions were not scientific. Committee members may have plucked the 0.5 parts per million figure straight out of a hat. One might note that Mr Wood, who presided over the Social Policy Committee and that report, has since disowned the 0.5 parts per million recommendation when he voted last year with Liberal and Labor members to restore the one part per million.

Madam Speaker, the appropriate level for fluoride is really a quite technical issue. We should respect the opinions of technical experts. Last year's Social Policy Committee report recommending a level of 0.5 parts per million was at variance with expert opinion. The National Health and Medical Research Council recommended levels of one part per million in its report entitled "The Effectiveness of Water Fluoridation" released last year. These people are the experts.

The report indicated that there is no evidence of ill effects attributable to a combination of fluoridated water at one part per million and discretionary sources of fluoride - for example, fluoride supplements, toothpaste, certain foods, et cetera. The report also noted, in considering levels of fluoridation at one part per million, that reductions below this level would inevitably result in an increased incidence of dental decay. There are a number of other studies which support this level of one part per million - approaching 100 worldwide.

Leaving aside a fiasco for about one week or so when fluoride was removed in 1989, Canberra has had fluoride in its water supply for about 27 years - longer than any other of the Australian cities. Canberra therefore provides a good point of comparison with cities such as Brisbane, which has never used fluoride.

The 1987-88 Australian national oral health survey showed that the tooth decay rate for children and adolescents in Canberra was well below the national average. When Brisbane and Canberra are compared it is found that Brisbane children between the ages of five and nine carry 59 per cent more decayed, missing or filled primary teeth than Canberra children; between the ages of 10 and 14, Brisbane children carry 53 per cent more decayed permanent teeth than do Canberra children; and between the ages of 15 and 19, Brisbane children had on average 40 per cent more decayed, missing or filled teeth. As a Brisbane child I can contribute. If anyone would like to see, I will show them later.

Mr Moore: Open your mouth.

MRS CARNELL: My teeth are all filled. All through the time that this survey was conducted Canberra had fluoride levels of one part per million. One part per million actually works. There is no good set of reasons for 0.5 parts per million, as we have had in recent months. I think that it is really important at this early stage in a new Assembly to put our best foot forward and get back to the level that we always should have had, one part per million - the level that the experts recommend, the level that I am sure Canberra people want in their water. We should show that this new Assembly is not going to be a vehicle of compromise and, to say the least, very weird ideas. I commend the Bill.

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

PROSTITUTION BILL 1992

MR MOORE (10.49): I present the Prostitution Bill 1992.

Title read by Clerk.

MR MOORE: I move:

> That this Bill be agreed to in principle.

The Bill that I have presented and the Bill that I will present shortly, which is the Prostitution (Consequential Amendments) Bill, were presented to the Assembly last year as the Prostitution Bill 1991 and the Prostitution (Consequential Amendments) Bill 1991. The Bills last year were passed in principle with the agreement of all members of the Assembly other than Dennis Stevenson. The Bills presented were drawn from a report of a committee of the Assembly - the Select Committee on HIV, Illegal Drugs and Prostitution - and the drafting instructions given were simply to draft the Bill from that report.

Having passed the Bill in principle, we then had a situation in this Assembly where, with some modification, the Liberals supported the Bill that I had presented. I was also told that the Residents Rally, whom you may remember, also supported that Bill in principle. Five minutes prior to the detail stage of the Bill coming before the Assembly, I was told by the leader of the Residents Rally, Bernard Collaery, that they had changed their minds. That was a fairly standard procedure for the Residents Rally.

One of the interesting things, I suppose, if I can digress for just one second, was a report in the *Canberra Times* about Bernard Collaery's comments on why the Residents Rally did not do very well in this last election. He blamed Crispin Hull, me and a series of other people, but never took responsibility for his conduct, his chopping and changing and his hypocrisy. One of the ironies that I found by reading that piece of paper was that I am in the process of trying to teach my eight-year-old son and my six-year-old son that they ought to take responsibility for their own conduct. It is something that he obviously missed out on in his own upbringing.

To get onto much more important matters, the second Bill that I will present shortly, the Prostitution (Consequential Amendments) Bill, is the Bill that decriminalises prostitution because it removes the laws that apply to prostitution as they currently stand. It removes a series of quite old and quite ridiculous laws. One of them that I understand nobody was ever charged under was that it was an offence for somebody in a bar or a coffee shop to serve a person who was a known prostitute. As I recall, there was a fine of $10 or something. That needs to be removed, as do a series of other regulations and laws that apply inappropriately to prostitution.

The committee last year, and I think the Assembly generally, felt that it was appropriate to regulate prostitution in some ways. The first Bill that you have, the Prostitution Bill, "A Bill for an Act to regulate certain aspects of prostitution", looks particularly at limiting the brothels in the ACT to Fyshwick, Mitchell and Hume. It looks at the participation of minors and ensures that there is no participation of minors, and prevents soliciting in public places.

What was suggested by the Labor Party in the debate on these Bills last year was that they should go to the Law Reform Committee and be considered by the Law Reform Committee. The Attorney-General has told me that Labor is still prepared to send these Bills to the Law Reform Committee. I am suggesting now that these Bills be tabled for consideration and that the Attorney-General refer them to the Law Reform Committee. If the Law Reform Committee would like, I am quite happy to make available the original copies of the Bills, which were in a more regulatory form, so that they can also consider those. That report could be brought back before the Assembly before we actually debate these, either in the in-principle stage or in the detail stage. I think that is an appropriate way to go and I am happy for it to be done that way.

So, Madam Speaker, what will happen now, as I understand it, I having tabled this Bill and once I have tabled the Prostitution (Consequential Amendments) Bill and the matters have been adjourned, is that they will not come back to the Assembly until after we have a report from the Law Reform Committee. That report may encourage us to make some modifications to the Bills as they stand.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.56): I move:

> That the debate be now adjourned.

Perhaps I am somewhat out of order, but I indicate that the Government thinks that what Mr Moore is proposing is sensible - that the committee look at the Bills and come up with a package.

Question resolved in the affirmative.

PROSTITUTION (CONSEQUENTIAL AMENDMENTS) BILL 1992

MR MOORE (10.56): I present the Prostitution (Consequential Amendments) Bill 1992.

Title read by Clerk.

MR MOORE: I move:

That this Bill be agreed to in principle.

I have nothing further to add.

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

CRIMES (AMENDMENT) BILL 1992

MR HUMPHRIES (10.57): Madam Speaker, I present the Crimes (Amendment) Bill 1992.

Title read by Clerk.

MR HUMPHRIES: I move:

That this Bill be agreed to in principle.

The full title of the Act being amended - the Crimes Act 1900 of the State of New South Wales in its application to the Australian Capital Territory - is effectively the ACT's equivalent of the States' crimes Acts, and is a very important piece of legislation underpinning a great deal of our criminal law. Prior to 1 January 1986, Part IV of that Act contained certain provisions which, broadly speaking, were aimed at white collar crime and were frequently used by both the police and the then Corporate Affairs Commission in this context. Of the provisions in Part IV, those most frequently used were section 173 to section 180. On 1 January 1986 the existing Part IV was repealed and new provisions were substituted by the Crimes (Amendment) Ordinance, No. 4 of 1985.

This Bill, Madam Speaker, is premised on the argument that former section 173 of the Crimes Act has not been adequately replaced by the 1985 amending legislation and should be substantially re-enacted to remedy a lacuna in the Territory's criminal law. The old section 173 was a specific provision which, in general terms, made it an offence for a company officer to take or otherwise misapply the property of a company. It does cover the area of directors and other officers using their position to steal from the company or misuse company property to their own advantage or to the disadvantage of the company. It is important to realise, however, that many of the activities proscribed in section 173 could not be regarded as theft in the ordinary sense of that word.

Section 173 was repealed on 1 January 1986, along with the rest of the old Part IV. The new provisions replaced section 173, together with the other sections, with a single theft provision - a new section 99. It is worthy of note that section 173

remains on the statute books in New South Wales, and equivalent provisions, I understand, exist in a number of other States. The explanatory statement to the amending legislation addresses the general questions of law reform in the theft/larceny area, but does not address the area specific to section 173, and related company officer sections. Nevertheless, it is to be assumed from the statement that the new section 99 was designed and was intended to cover these areas as well.

Apparently, Madam Speaker, the law was meant to be covered formally in two ways. First, the old section 173 was covered by the general theft provisions of the new Act - that is, section 99. But also, of course, the provisions of the Companies Act - formerly the Companies Act 1981, now the Corporations Law 1990 - particularly section 232 of the new Act, were designed to cover this area. So, there are meant to be two provisions dealing with this particular problem.

I believe, Madam Speaker, that those provisions are inadequate to deal with the problem of corporate fraud and some white collar crime in the ACT. Particularly, reference should be made to the case of R v. Roffel in the Victorian Supreme Court in 1985, where it was held that, where a director is substantially in sole control of the affairs of a company, an appropriation by him of the company's property is not to be regarded as theft, because he has, in effect, given himself authority to appropriate the property. This clearly is an unacceptable position as it permits controlling directors to use or misuse company property at their discretion, to the disadvantage perhaps of shareholders or creditors.

I also understand, Madam Speaker, that the courts have been quite unwilling to enforce the provisions of section 232 of the Corporations Law, except in the most obvious and blatant cases of wrongdoing by directors. In effect, the courts have followed the philosophy behind the decision in Roffel's case here as well.

I think, Madam Speaker, it is worth referring briefly to section 232 of the Corporations Law to see what deficiencies it does contain. Subsection (2) of that section says that an officer of a corporation shall at all times act honestly in the exercise of his or her powers and the discharge of the duties of his or her office. The courts, Madam Speaker, have read down the word "honestly" in this provision in conformity with Roffel's case. In effect, a director is held not to act dishonestly if, as the controlling director, he approves an appropriation of company property by himself.

Subsection (4) of that same section says that an officer of a corporation shall at all times exercise a reasonable degree of care and diligence in the exercise of his or her powers and the discharge of his or her duties. Unfortunately, that is also insufficient, I believe, to cover the problem of some white collar crime. The courts have not regarded appropriation of company property as relevant to care and diligence. This subsection has been held to be a restatement simply of the common law position of directors' duties.

Subsection (6) provides that an officer or an employee of a corporation must not, in relevant circumstances, make improper use of his or her position as such an officer or employee to gain directly or indirectly an advantage for himself or herself or for any other person, or to cause detriment to the corporation. The difficulty with that subsection is that the prosecution must prove beyond reasonable doubt that the appropriation was a misuse of position by the director charged, and it must be established that the director believed, by ordinary standards, that his actions were improper.

In the context of section 232 it is also relevant to note that the provisions apply only to a corporation within the meaning of the Corporations Law 1990, which effectively means a company as we would understand it. I think there is an argument that says that prohibitions of officers misappropriating company property should be part of the general law. It does not apply, for example, in its present form to incorporated associations, trade unions or cooperative societies.

The result of these arguments is that certain actions by officers of companies and other incorporated bodies, which in at least most of the States attract criminal sanctions, will probably go unpunished in the Australian Capital Territory. An illustration of the type of problem we might have is given by the last prosecution launched by the old ACT Corporate Affairs Commission under the former section 173. It should be noted that, although the information in that matter was laid in 1988 and the matter was heard in 1989, the facts occurred in 1985, that is, before the repeal of section 173.

This case related to a person who, while not formally appointed a director of a company, carried out all the functions of the managing director of a company, which I will call company A, and was clearly in total control of that company. The reason for the person's non-appointment as a director was that he was an undischarged bankrupt. As a result, he was charged with an offence under subsection 227(1) of the Companies Act 1981, and was found guilty.

Company A experienced financial difficulties and was clearly insolvent, having an excess of liabilities over assets. During the period of decline of company A, the de facto director started another similar business with another company, company B. He also made false entries in the accounting records of company A to disguise his actions. He would, for example, order goods and services on credit in the name of company A, but all sales were made in the name of company B and revenues were paid into a bank account in the latter's name. This stratagem was clearly designed to defeat creditors and enable him to enjoy the profits of continuing in business.

He was convicted in mid-1989 of a number of offences against section 173, now repealed, and he was sentenced to six months' imprisonment, which I think was subsequently suspended. Because of his personal circumstances, there was no possibility of restitution of the persons defrauded. Back-up charges under section 229 of the Companies Act were laid as alternatives to the section 173 charges. It is important to note, however, that the magistrate in that matter commented that, had the section 173 prosecution failed, he felt it was unlikely that the Companies Act charges would have succeeded in securing a conviction. Equally clearly, had the person been charged with theft, Roffel's case almost certainly would have prevented a conviction.

This particular provision is quite clear. It is quite straightforward. It is a simple restatement of what I think all of us would consider to be a quite obvious duty on the part of all officers of corporations, and one which I trust and hope this Assembly will support. It is a matter which I believe needs to be well ventilated in the community, particularly the business and legal communities. I am sure that, I having tabled this Bill today, that will occur, and I look forward to debate on this Bill in due course. I commend the Bill. It is a very sensible Bill, too.

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

STANDING ORDERS - MATTERS OF PUBLIC IMPORTANCE

MR CORNWELL (11.07): I move:

> That standing order 79 (relating to matters of public importance) be amended by omitting "A Member" and substituting "Two Members".

This relates to matters of public importance and my intention is to amend standing order 79 so that it will require two members, not one, to have a matter of public importance debated by this Assembly. In other words, the support of two members for a matter of public importance will be needed. It will, of course, remain up to Madam Speaker, if there are a number of MPIs for consideration, to make a choice as to which one is to be debated.

I said last night in my maiden speech that I thought the previous Assembly was something of an aberration. Indeed, this was one aspect of it that I found, frankly, puzzling; that is, that one person could put up a matter of public importance. Even in the old advisory assembly, at least four people, possibly half a dozen people, were required to support an MPI before the matter could be debated. I may say that on occasions the person putting up a topic found that they did not receive the support of that number of people, and therefore the matter of public importance did not proceed.

I think I should advise the Assembly that this requirement that more than one person put up an MPI is followed elsewhere in Australian parliaments. The Commonwealth, for example, of 148 members, requires eight people, including the proposer, before an MPI can be debated. In Victoria the proposer plus 12 people, out of a total of 88 members, have to stand in the chamber before an MPI can come up. In the Northern Territory, which is closer in numbers to this Assembly of 17 - the Northern Territory has 25, as members would be aware - they require five people of 25, in other words, 20 per cent of their members, to support a matter of public importance coming forward.

Mr Kaine: Your maths are on the mark, "Minister for Education".

MR CORNWELL: Thank you. At least we do not have a numeracy problem. I do not know about literacy. It seems to me, therefore, that it is not unreasonable for this Assembly of 17 members to require - - -

Mr Berry: It is all right for primary school.

MR CORNWELL: At least I will be better on the numeracy than your bed numbers are, Mr Berry. I do not think it is unreasonable that this Assembly of 17 members should require two members to support an MPI coming before at least the consideration of Madam Speaker. In 1991 there were, in fact, some 32 matters of public importance debated in this Assembly.

Mr De Domenico: How many, Greg?

MR CORNWELL: There were 32. One member - I see no reason why I should not mention Mr Stevenson's name - Mr Stevenson, had 12 of those MPIs. Four of them, I might add, were in conjunction with other members, which is perfectly reasonable and proper. Indeed, it is exactly what I am seeking to do. It would seem to me, therefore, that there should be no complaint from any member of this Assembly, including Mr Stevenson, who in the past has had an MPI brought up with the support of other members - he himself has set a precedent in doing so - about the requirement that two members, and not one, support an MPI. May I also add, Madam Speaker, that in my opinion a good MPI will always receive the support of other members.

It really is a matter of whether we amend standing orders to require two members to sign an MPI going forward, Madam Speaker, or perhaps arrange that the support is given on the floor of the chamber when the matter comes before us. I understand that there is a proposal to remove this to the Administration and Procedures Committee for further consideration. I have no objection to that proposal. I simply conclude by saying that I believe that the proposal to have two members to support an MPI will prevent, or at least reduce, individual grandstanding. It will save time and I believe that it will more truly reflect the wishes of the Assembly. I commend the motion to the Assembly.

MR BERRY (Deputy Chief Minister) (11.12): Madam Speaker, in order that the headmaster's figures can be checked, I move: That the matter be referred to the Administration and Procedures Committee for consideration and report.

MADAM SPEAKER: Mr Berry, you need either to move an amendment to the motion or to seek leave to move that.

MR BERRY: I seek leave to move a motion along the lines I just mentioned.

Leave granted.

MR BERRY: I move:

> That the matter be referred to the Standing Committee on Administration and Procedures for consideration and report.

Question resolved in the affirmative.

STANDING ORDERS - CALLING FOR A VOTE

MR CORNWELL (11.13): I move:

> That standing order 153 (relating to calling for a vote) be amended by omitting "a Member", and substituting "two Members".

Members, this means that for a division to be called in this chamber two members, not one, would be required, on the voices. I will be very brief on this, Madam Speaker. I will simply refer to *Hansard* No. 16, of 27 November 1991, in relation to the Human Rights Bill. On that one day alone there were 14 divisions called by one person. The vote in each case was 16-1. If you allow for the hourglass there - - -

Mr Stevenson: Sometimes it was 13-1 or 14-1 or 15-1.

MR CORNWELL: I have checked them, Mr Stevenson. There were 14 divisions which were carried 16-1, and you are at liberty to check *Hansard* No. 16 yourself. If we allow for the hourglass - I think it runs for four minutes - at least 56 minutes was lost on that day if on each occasion somebody was out of the chamber before the hourglass ran through. Never mind about the time taken for the calling of the division. I believe, again, that this is an unnecessary waste of the Assembly's time.

I refer to page 5097 of the *Hansard* of 27 November 1991. I do not believe that we should allow any member to say this:

> I will stand here and present as many points as I can to do with why we should block, stop, vote against, get rid of, dump, file in the wastepaper basket, adjourn until 1999 or anything else - whatever I can.

Members, I do not believe that we should tolerate that sort of thing. I believe that people have a right to object. I believe that people have a right to have their objections recorded in the *Hansard.* But I do not believe that members should have the right to obstruct the operations of this Assembly. Again I commend the amendment to the house.

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

> That the matter be referred to the Standing Committee on Administration and Procedures for consideration and report.

T.A.F.E. FEES FOR ADULT LITERACY STUDENTS

MR MOORE (11.16): I move:

> That the newly elected ACT Labor Government live by its promises and abolish fees for adult literacy students attending TAFE courses.

Madam Speaker, the ACT Council for Adult Literacy was established to support adults in the ACT experiencing difficulties with literacy and numeracy. This raises questions on literacy, rights and justice; the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

Employment prospects for those lacking developed literacy skills are very few. Within relationships the fact of illiteracy can, and often does, make employees powerless to promote, or even protect, their own economic interests. Under prevailing economic and technological conditions within our society, illiterate persons are prime candidates for the now permanent reserve of unemployed. That reserve of unemployed, of course, was the very thing that many Australians who voted Labor in the Federal election wanted to get rid of. It is that unemployment issue that will dominate, I believe, the next Federal election. The increasingly impersonal nature of work relations makes print competence,

in particular, essential for even the most mundane jobs. Where employment opportunities do remain open to illiterate people, they are within an increasingly narrow range of tasks, poorly paid, with low status and within which the illiterate employee has minimum negotiating strength.
Another issue that is important for people who are illiterate is the right to take part in the government of one's own country directly or through freely chosen representatives. Illiterate people rarely vote. There is evidence that those who do vote usually cast votes of questionable worth. Many of us could look at the statistics for the last ACT election and try to make sense of the way some people voted. Those who had scrutineers at the count of the voting could also attempt to make sense of how some people voted across and through party lines.

Mr Kaine: Some of them even voted for you, Michael.

MR MOORE: One of the most interesting things is that there were people intelligent enough and literate enough to understand what was represented by people like me, rather than just voting on direct party lines. "Democracy" really is a mendacious term when used by those who are prepared to countenance the forced exclusion of one-third of our electorate.

Another important factor is the right to economic, social and cultural conditions necessary to the dignity of a person. There are poignant examples of how dignity is undermined on an everyday basis through illiteracy. Some of these include those unable to read a menu in a restaurant, and people unable to catch public transport due to the inability to decipher timetables, directions or signs. Access to every service in a print-dominated society is severely limited.

Another important factor is the right to a standard of living adequate for the health and well-being of oneself and one's family. Whereas it has been shown that a year 9 level of reading and comprehension is required to understand the instructions on many household products labelled poison, or pharmaceutical products, a year 10 level is required to understand the instructions on a tax return - you have to be pretty good if you can do it from year 10 level too - and year 12 competence is required for an insurance form. No doubt the year 10 level refers to the more recent tax return forms. Many of us can recall only four or five years ago when I am sure there were surveys taken where a postgraduate level was required in order to understand the taxation forms.

The simple demands of justice inherent in these taken-for-granted human rights entail the ability to read and write. Failure to ensure as far as possible that this condition is met by all individuals within modern print-dominated societies is to be complicit in fostering social injustice. The very nature of social justice is interwoven with the notion of literacy and access to literacy.

The appropriate stance for governments committed to justice is for those government and other agencies whose views and actions are seen as authoritative to take measures to draw adult literacy into the arena of full status knowledge and to fund adult literacy programs and give them a high profile. Federal, Territory and State governments must, in justice, acknowledge their role in this new age partnership and must be held accountable for their response.

Madam Speaker, I shall now quote from a media release dated 26 June 1990. The media release has at the head of it "Rosemary Follett MLA". The headline is:

> Labor will abolish TAFE fees for adult literacy courses.

Remember that this was when she was in opposition; when there was an Alliance government. It states:

> ACT Labor Leader Rosemary Follett said tonight that TAFE charges for adult literacy courses would be abolished when Labor was returned to Government at the next ACT election.

Obviously she had room to move. It continues:

> Speaking in support of the adult literacy students' protest about increased charges for literacy courses, Ms Follett said that literacy was a basic right which should be available to all people in the community.

That is a very sensible and rational statement. She stated:

> The ACT Government has once again shown that it has an accountant mentality.

There she referred to the Alliance Government that was led by Trevor Kaine. She continued:

> They have not thought about the needs or wishes of the community, only the cost.
>
> Literacy skills are not only vital to individuals, but are expected by the community. We have an obligation to assist people with literacy problems so that they can fully contribute to the community.

She then went on to say:

> I am surprised that the Liberals -

and another group that were with the Liberals -

> have decided to celebrate International Literacy Year by making life harder for adult literacy students. Labor will abolish the TAFE charges for literacy courses when we are returned to Government.

It is true to say that Rosemary Follett had the opportunity to remove those literacy fees in the last Government and chose not to. But it is also true to say that the beginning of that press release did say "when Labor was returned to Government at the next ACT election". So, she had room to move. What we are saying is that she had the opportunity to remove them last time and did not, and it seems to me important for us to set on the agenda now that this Labor Government will meet its responsibilities, will meet its promises and its commitments, and will now be committed to removing those literacy fees in the interests of a most important part of social justice.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (11.24): Madam Speaker, this really is an unnecessary motion. The Government intends to do this. As Mr Moore says - and I have the same document - Ms Follett promised that after the next election she would abolish those fees, and she and her Government will keep that promise. Those fees will be abolished. The provision for that will be made in the next budget. I should point out that - - -

Mr De Domenico: How much is it going to cost?

MR WOOD: The cost is perhaps about $30,000.

Mr De Domenico: So, you could have afforded to do it in the last budget. It is only $30,000.

MR WOOD: You did not leave us a very good budget. You left us a deficit of what? It was $6m or something. You left us a compact with TAFE that was on a reducing level of income for TAFE. You were not making things very easy for anybody. Ms Follett's promise was clear and it is being kept. Her commitment was made during the International Literacy Year. I want to point out that in that context, with the focus in the ACT, as across the world, on the urgency of literacy, as Mr Moore properly points out, that promise was made.

We do rely on fees to fund a substantial part of TAFE. This is a relatively minor impact, as you can see; but we also need to continue to charge fees, albeit with concessions in many areas, in TAFE into the future. So, this certainly does not herald a reduction or removal of fees across TAFE generally. The acquisition of literacy is an essential first step in people being able to have competence in moving into the work field, and in moving across areas of work. I certainly acknowledge the remarks of Mr Moore about the importance of literacy, and the Government, following Ms Follett's promise, is acting in that area.

MR CORNWELL (11.27): Madam Speaker, the Liberal Party will certainly be supporting Mr Moore's motion here today. I am pleased to hear Mr Wood's undertaking on behalf of the Government that they will introduce this; but, of course, they make promises on all sorts of things. It is a bit like Christmas; Christmas is always coming.

Mr Wood: You lot cut TAFE funds.

MR CORNWELL: I find it rather strange that Mr Wood should be attacking us on this very point. However, let me refer to the ACT Council for Adult Literacy letter, which pointed out that at TAFE this year - I am speaking now of 1992 - fees for literacy and basic education courses will range from $121 to $221. While concessions are available to some students, many low income earners have difficulty meeting these fees. I do not think anybody would argue about that. Indeed, as Mr Moore, quite sensibly and realistically, has pointed out, those are the people that need the literacy experience, the literacy education.

We have no objection to these matters. Indeed, how could we? After all, it was the Liberal Party that proposed to address this question of literacy and numeracy where it should properly be addressed, namely, at the primary school level, by introducing literacy and numeracy skills testing for students in primary school years rather than trying to pick up the pieces in TAFE, much further down the track. It is interesting that the Labor Party in their own policy have opted out.

Mr Kaine: You do not need to spend money in TAFE if you have fixed it in primary school.

MR CORNWELL: Exactly, Mr Kaine. It is interesting that the Labor Party have opted out of this whole question of skills testing at the primary school level. Their own policy states that they will establish guidelines for the early identification and resolution of literacy and numeracy problems without recourse to standardised, systematic testing. Perhaps they have a deal going with OPSM and they are going to - - -

Mr De Domenico: Were they in the last Assembly as well?

MR CORNWELL: Maybe so. Maybe they are going to identify them through rose-coloured glasses. I will be very interested to see how they plan to establish these guidelines. The fact is that the Liberal Party is prepared to address this question where it is needed, and that is at the primary school level. We do accept, however, that, because this matter has been neglected for so many years, obviously there must be a catch-up opportunity presented, and that seems to be sensibly done in the TAFE system. We are happy to support Mr Moore's motion accordingly.

MR MOORE (11.30), in reply: As no-one else is going to address the question, I thought I would make a couple of comments. I am delighted that the Liberals are supportive, for their reasons. People made promises quite some time ago and this is an opportunity to draw attention to those promises, to raise the issue and to ensure that we have a consistent approach from people, where appropriate.

I really have difficulty in letting go some of the comments of Mr Cornwell on skills testing. I accept, and I agree with him, that the most important place to address literacy and numeracy is in the primary school. I have a difference of opinion with Mr Cornwell on the method of doing that. The notion that we can resolve all those problems by standardised skills testing across the schools is naive, to say the least. There are some suggestions that standardised skills testing would have the opposite effect. Standardised skills testing teaches children that they are really not very good.

I see Mr Humphries turning up his face. As a teacher of long standing, I believe that one of the most important factors in children, in particular young children, is their self-concept. Their self-concept reaches a stage where they think, "Well, having been tested and so forth, compared with the other kids, I am just one of the dumb bums", and that is the term they use. Then, in fact, it is almost impossible to motivate them. What we can rely on instead is what our professional teachers are doing. Some of the things that our professional - - -

Mr Humphries: Are they encouraging "smart bums"?

MR MOORE: Certainly. Mr Humphries says, "What about the smart bums?". That is the flip side of the coin. Some of them are going to consider themselves the dumb ones; the other ones consider themselves the smart ones. The smart ones will do very well under those circumstances because they feel better than everybody else, and that is very good for their self-concept. But the price you pay is that the others are going to have difficulty with literacy. That is what we are talking about - basic literacy and numeracy.

The way to resolve the problem is to allow your professional teachers to encourage each child to develop to their own potential, to their own level. That is what our professional teachers do. They have developed programs to assist them in doing it. One of my children was involved in a reading recovery program after we found that he had a simple physical impairment with his eyes that had prevented him from learning to read. The reading recovery program brought him back onto line. It brought his level of reading up, so that it was within the standard systems that are offered in the class.

It is not that testing does not go on. There is this implication that there is no testing going on in the class. Of course it is going on. Each of those professional teachers is making a judgment about how to test and when to test, and they are making a professional judgment that takes into account the self-concept.

Mr Kaine: They obviously often fail, because people are coming out illiterate.

MR MOORE: The Leader of the Opposition interjects, "They obviously often fail, because ...". I did not hear his reason. If he looks at the statistics put out by the Australian Council for Educational Research, who have been providing statistics on this over the last 40 or 50 years, he will find that there has been an increase in literacy throughout Australia for a long time. It continues to increase because of the professionalism of our teachers, because of the calibre of our teachers. **T**here has been an improvement.

That does not mean to say that we have gone all the way. There is still room for improvement, and we are still working to improve. That we continue to attempt to improve is important. We know that the literacy skills in the ACT, thanks to the high calibre of our teaching profession here, are higher than those in other States. That does not mean to say that we stop working towards an improvement in them. The most important factor in working to improve those, which comes through all the research, is that we lower class sizes; that we improve the ratio of the number of students to the teacher. When those ratios - - -

Mr Humphries: Where is the money coming from?

MR MOORE: We can provide stacks of research for you on that one. **I**f you really are interested in literacy, standardised testing will in fact make things worse, not better. It is far better to spend your money on improving the ratio of class sizes. That is how you deal with literacy in schools.

Coming back to the issue at hand today, dealing with the situation once it has gone past the schools, that is what we are doing. We are trying to handle it from two sides: First of all, trying to resolve the problem as it appears in the schools, so that we do not have a later literacy problem; secondly, moving to ensure that literacy, at adult level, can be gained by adults who for some reason have missed out through our schooling system or because they have come from somewhere else.

Question resolved in the affirmative.

METHADONE PROGRAM

MR MOORE (11.37): I move:

> That the ACT methadone program be expanded to meet the needs of all its potential clients consistent with an appropriate harm reduction approach.

In introducing the motion on the methadone program today I will cover a series of areas. I will cover an overview of drug policy and harm reduction with reference to both legal and illegal drugs. Today I will take the opportunity to emphasise the work of abstinence orientated rehabilitation centres such as Karralika, look at a harm reduction approach and how that might operate, having the benefit of having attended the Third International Conference on the Reduction of Drug Related Harm just a couple of weeks ago, and then talk about how the methadone program operates in the ACT and why it ought be expanded. I have discussed this issue with Mrs Carnell, who will then talk about something she is much more familiar with - how the methadone program might operate through a pharmacy, and an expansion of the program as far as pharmacies go.

Madam Speaker, I think it is important, in looking at an overview of drug policy, to understand that wherever prohibition has been used as the only approach to drug policy - the term they use in the United States is a nil tolerance approach to drug policy - not only has there been an increase in the use of the drugs; there also has been an increase in the harm associated with drugs. The irony is that the nil tolerance policy applies simply to drugs that arbitrarily have been declared to be illegal, while in almost every case there has been the opposite attitude to drugs that have been declared legal, often drugs that are much more damaging than the illegal drugs. I refer specifically to cigarettes as the most important example.

If we are to have a consistent harm reduction policy, as is the policy for every jurisdiction in Australia - as was the policy under Mr Kaine's Government, and as was the policy under each of the governments in the ACT - then we see an attempt to reduce the use of and harm associated with legal drugs as well as the illegal drugs. We have seen Mr Berry moving on that recently with reference to advertising of cigarettes, and I would like to commend him for that.

It is also important, I think, when dealing with drugs, for me to take an opportunity to commend the people who work on abstinence programs in the ACT - the people who work in halfway houses, the people who work on getting people off drugs when they are ready to do so. I have been working in this area for some time, dealing with new notions, as was required of me when I chaired the Select Committee on HIV, Illegal Drugs and Prostitution last year. Because there was an emphasis on looking for new and alternative approaches, we spent very little time giving credit where it was due to people who were working very hard to get people off drugs. That, of course, is the most important part of any approach to either legal or illegal drugs.

I think a number of us here remember a meeting at Karralika, during the election campaign, where a great deal of work has gone on. In fact, there is a world first in Karralika, where there is a program which can include the whole family in terms of part of the rehabilitation process, and that process is, of course, important.

Methadone also has its place and a role in getting people off drugs completely. Where you have a methadone reduction program, it is used to take people off drugs slowly. In particular, methadone is used as a method of removing people from heroin. Methadone programs also are used in the ACT as a maintenance program. In other words, the person is allowed to use methadone, which is an opioid very much like heroin; but it allows people to reduce what is often referred to as a "chaotic lifestyle". Where it is used as a maintenance program, people are often then encouraged to move to a reduction program, and I agree with that. I think that is very sensible.

The difficulty with some of the methadone programs in the ACT is that, whilst they provide those very good services that suit a large number of people who are ready and willing to try to get out of that chaotic lifestyle, who are ready and willing to try to leave their illegal drug use behind, they have not taken into account some of the other people who have different views, people who have decided that they do not want to leave the other drug; they are not ready to leave the other drug. In the case of methadone, we are talking about heroin.

One of the interesting things about it is that a methadone program that requires urine testing, for example for heroin and for other drugs, really takes away the dignity of the people who are on that program. Where people have voluntarily said, "Yes, that is what I want to do because I want to have that extra pressure on me", I think that is entirely appropriate. Where people have said, "Yes, I want to reduce", and that is what they want to do, I have no difficulty with that.

Where people say, "No, I want to retain my dignity; I do not want to be tested by my hair" - a quite common method of testing people now is by looking at a hair sample, and it is a quite cheap method - "and I do not want to have my urine tested", we ought to be prepared to look at how we can reduce the harm associated by providing that alternative service, and it is an alternative service that is not provided in the ACT at the moment.

It provides a harm reduction approach because the people who are still on drugs can well have a chaotic lifestyle sorted out. There is quite a deal of evidence to indicate that where people are on methadone programs, even though they are not reduction programs, even though the goal is not purely to get people off drugs - that might be a long-term goal of the people who are running it, but it is not the goal of the individual involved - the methadone program, which is non-judgmental and provides dignity, reduces the harm to the community because the people involved in it are not so likely to be involved in burglaries and robberies. We understand that a high proportion of our crime in the ACT is associated with the use of illegal drugs and attempts to get the money for those illegal drugs.

Our methadone program needs to be expanded in order to provide for those people; so that they have a chance for some dignity; so that they have a chance to be empowered to make their own decisions; so that they are recognised as individuals who can make their own decisions. Once we start recognising those people as individuals who can make their own decisions and we start empowering them, they are obviously in a much stronger position to be able to make that decision and to say, "Enough of having a life dependent upon these drugs; it is time for me to get off it". It happens to suit society because we will have a reduction in the harms associated and will not have the sorts of problems that are evident in many Western countries throughout the world - most notably of all, the United States.

At this stage I think it is appropriate to provide compliments, where they are due, for people who have worked in this area for some time. It was Professor Peter Baume - formerly Senator Peter Baume - in his report in 1977 called "The Intoxicated Society", a parliamentary report on drugs, who first suggested a national strategy, which has now been adopted, of course. Perhaps even more importantly, the Health Minister at the time, Neal Blewett, very bravely introduced the harm reduction policy of needle exchange, which has meant that Australia has the lowest spread of AIDS throughout all the countries of the Western world. Both those people need to be recognised for their contribution in this area.

However, there is still work to be done. If a sensible harm reduction approach is going to be taken, it is appropriate that we take action to increase and improve the services that are offered by the methadone program. Mr Berry suggested last year that it would happen, and I think we must ensure that that is exactly what does happen.

MRS CARNELL (11.47): I would like to begin where Mr Moore finished, with Mr Berry's announcement last year. In fact, it was on 21 August last year that Mr Berry announced that a pilot scheme for methadone through ACT pharmacists would be undertaken. That scheme was put forward initially under the Alliance Government and later developed under the Labor Government with input from the Drug Referral and Information Centre, the Pharmacy Guild and others. That scheme or that pilot project seems to have gone nowhere. The amount of legislation required to bring that on-line - a very small change in laws affecting pharmacy and the storage of drugs and also in the laws affecting how methadone can be prescribed in the community - is absolutely minute and yet is still not on the table here.

The positives of methadone through pharmacy have been demonstrated worldwide. In fact, discussions in the ACT have been going on for years, but over the last two years they have really hotted up. We started talking about how we could increase the number of methadone patients on our program, currently I think about 107, to the very much needed 200 places.

To do that we really need to take our stabilised patients out of the program and back into the community. That is also important because it is very much a step in the rehabilitation program for addicts. It is important to get them out of the hospital setting, out of the referral centre setting, and back into the community. It is important for them to be able to hold down jobs, to be able to look after their families in an appropriate way, without having to turn up at the clinic every day between 10.00 am and 2.00 pm, which is often the case and which is certainly the case in the ACT. If you have a job, how in heaven's name do you get to Woden Valley Hospital at that time every day? In fact, in many cases people on the program indicate to us that it precludes them from holding down a job.

By moving stabilised addicts back into the community, back to pharmacy, we manage to allow them to pick up their doses in the community where they live, where in many cases they bring up their children, and, importantly, where they work as well. They can pick them up before work, after work, and so on. It is a very important part of that rehabilitation program.

I understand that there has been some work on the methadone program in recent days, to introduce a low intervention program along the lines of Mr Moore's statements, and that a questionnaire has gone out to addicts along those lines. I think that is an important part of a methadone program in the ACT. But without that final stage, without that rehabilitation, without that getting people back into the community in which they live, the whole program falls on its face.

Therefore, it is absolutely essential, if we are going to have a methadone program, and we must, that we expand our numbers so that we can get people onto the program - not in five months or five weeks, but when they really make that earth-shattering decision that they want to get off heroin, that they want to get back into the community, that they want to stop robbing houses to get the money, that they really want to get back on track. We have to be able to take them into our program that day, in fact that hour, when they make their decision. To do that, the low intervention program is essential. Also, we must get stabilised addicts back into the community through the pharmacy program.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (11.51): One of the things that we must recognise, and recognise very clearly, is that the methadone program is a rehabilitation program and it must be, of necessity, a disciplined rehabilitation program for those who require that sort of discipline. It is all right to say, "Yes, we should make it easier for pharmacists to administer methadone out in the community because that would be better"; but you cannot simply say that without looking at all of the conditions under which the drug would be administered.

The methadone program is not about the supply of methadone to heroin addicts for the fun of it; it is a program that is designed to rehabilitate people, and nobody more than the Labor Party recognises the need to do something about the heroin program. Take, for example, the overwhelming number of crimes committed in the community which are drug related. With better administration of addicts we can, hopefully, move to a situation where there is less crime and less impact on the community as a result of inappropriate substance abuse.

The motion that is before the Assembly is one which seeks to put some pressure on the Government about changes in relation to the methadone program. I have made announcements in relation to that and, as the Liberals would recognise, when I make announcements about things I usually do them. Take as a classic example the way I cleaned up finance in Health. That is a classic example.

Mr Humphries: Ha, ha! Apart from the blow-out.

MR BERRY: Of course, they get twitchy whenever these things come up. No; the Government has indicated that it is going to do something about this matter. I think those of you who have taken a look at the legislation list will find that the Drugs of Dependence Act is mentioned on the legislation program.

Mrs Carnell: Second priority.

MR BERRY: It is mentioned on the list. Of course, we would never be able to see on our legislation program a list that would suit everybody, particularly the Liberal Party. This Government will move to improve the provision of - - -

Mrs Carnell: You announced the pilot program last August.

MR BERRY: Mrs Carnell complains that this matter has been on the plate. We are not here to suit pharmacists. She has to forget the old mortar and pestle; she is now a member of the Assembly. She is responsible for government in the ACT, not the interests of pharmacists. Just forget the mortar and pestle; leave it behind you. We want to do this objectively and work through it sensibly, and that is what we are doing. There has been an increase of clients being provided with methadone.

Mr Moore: From 107 to 112.

MR BERRY: That was in the short period of the Labor Government, and I take some pride from that because I think it was an improvement, and any improvement is good. It will be further improved. But it is not something that one rushes into; it is something that is done properly. There has been some consideration of this by the Board of Health. Officers in my area are considering amendments required to the Drugs of Dependence Act and these issues will be considered by Government in due course. Of course, the issue of community pharmacies will be taken into account. It is on the legislation program and we will do it. I said that we will do it and it will be done.

Mr Kaine: Next year, the year after, the one after that?

MR BERRY: Mr Kaine knows that one does not speculate about Cabinet business. It will take its place in the order of Cabinet business. I note that Mrs Carnell tries to introduce unnecessary emotion into the debate. People are interested in the people who can be saved by way of a methadone program; nobody more than Labor is interested in that. It has been promised that there will be changes that will be in the interests not only of pharmacists; they will be in the interests of the community and those people who are addicts to opioids in the community. We will make sure that the program that is developed is developed properly and thoughtfully and that it has the support of all of the people who are subject to its influences. Of course, as time passes there will be further embarrassment for the Liberal Party because of the haste and expertise of the Labor Party in government.

MR KAINE (Leader of the Opposition) (11.58): It is interesting the way that the Minister for Health ducks for cover, obfuscates, and merely procrastinates when an issue like this comes up.

Mr Berry: Have a look at the legislation program. Are you blind or something?

MR KAINE: There are all sorts of things on your legislation program. I will be interested to see whether any of them ever see the light of day. There are all sorts of things in your policy platform, too, that never saw the light of day before the election. Some of them are starting to surface now, and some of them, no doubt, will catapult to the top of the priorities of the Labor Party, although the Chief Minister says that some of them do not have very much of a priority; but we will see in what order they come forward.

I think that this is a good motion that Mr Moore has brought forward. It is obviously something that has long been needed in this community. It is something that Mr Berry said he would do.

Mr Berry: And will.

MR KAINE: I know that you said that you would do it. I remind you, Mr Berry, that the Labor Party, for a long time now, has been saying that they are going to do something about youth unemployment. All that is happening is that youth unemployment is increasing and we do not see any evidence of any action on the part of government to do anything about it. Ms Follett keeps saying that she is going to do something about it. She said it in her strategy statement last year. She has only just now said it again, when setting out the intentions of this Government for the next three years. But she has not yet done anything that has generated one single job for one single youth in this city. So, when Mr Berry says, "We are going to do something about it", are we going to wait until 1995 or 1996?

Mrs Carnell rightly points out that there is a means by which the Government can do this very quickly, and that is simply to allow the pharmacists in this city to do it. When you talk about professionalism, I presume that they are all practising, professional people. They are quite competent to dispense methadone. If you have a program in place whereby the person gets a bit of paper that says, "Front up to your local pharmacist whenever necessary and you will get your dosage", it is as simple as that. It should not take a great deal. You do not need a mental giant to conceive a system whereby this could be done very quickly. I do not know whether we have a mental giant, but the fact is that a program is needed. It has long been demonstrated as needed. We know the dimensions of the problem. The Minister has said that he is going to do something about it. Well, the simple next question, Mr Berry, is: When? When? Tomorrow? Next week? In 1995? In the year 2020? When?

All it requires is for the Minister to say, "We will put this program into place with effect from 1 May or 1 June". It is as simple as that. No problem. The public servants in the health system then go away and they do as they are directed. We know that our public servants are very professional, and they respond very quickly to positive guidance, positive direction and positive management from the political level. There has never been any question about that. They are very professional people. So, please, Mr Berry, say to your Board of Health, "By close of business today we want this methadone program in place; we want it in place by some date". It is as simple as that.

Mr Humphries: That is right. A simple decision.

Mr Berry: That is the way you used to manage Health. That is not the way I do it. We think it out. We do it properly. You know, a bit of cerebral energy.

MR KAINE: That is exactly right. That is how you get things done, Mr Berry. You spent months back there in 1989 trying to figure out what you were going to do about the hospital fiasco. You spent a lot of time thinking about it; but then, as now, you did nothing. We came into government and we very quickly put in place the hospital restructuring program, which you now claim as your own. How incredible!

You have been the Minister again since June of last year and you are still talking about doing things. You are still talking about fixing hospital beds. Let us stop talking about things, Minister. Let us have a simple direction from you to your health administrators to actually do it. It is as simple as that. I will give you a lesson in the way things are done, if you like. It is as simple as that. Just go back to your office, write a little note and send it down to Jim Service at the Board of Health and say, "Dear Jim, I would like you, by 1 May, to implement this

program, and give me a report by the middle of May that you have actually done it, please". That is all that is required. Mr Service and the Board of Health, and Ms Biscoe, will get on with it and do it. So, just give us the evidence tomorrow that you have made that request of the Board of Health. Mr Moore will be happy; Mrs Carnell will be happy; I will be happy and I will not nag you about the subject ever again.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (12.04), by leave: I move the following amendment to Mr Moore's motion:

Omit "potential".

Mrs Carnell: Is that because no clients have potential?

Mr Moore: No. That limits it to the 107 he already has.

MR BERRY: No, it does not. Potentially it could cover the whole of the ACT. "That the ACT methadone program be expanded to meet the needs of all its clients" is reasonable wording, in my view. You do not cover people who are not your clients, and one has to be on the program, or an applicant for the program, to be a client. Potentially you are saying that every person in the ACT could be on the methadone program.

Mr De Domenico: And beyond.

MR BERRY: And beyond. It seems to me to be a rational approach. It does not change the direction of the motion, and the Government will, of course, support the motion. The Leader of the Opposition does not seem to have noticed that the Government is already taking action. Instructions do not have to be issued; it is under way.

Mr Kaine: What action have you taken? Would you like to explain this?

MR BERRY: It is under way. That is the problem when you are in opposition; you cannot always have command of things. In opposition you have to sit back and you will not have all the access to the information that you might like. Progress through the Cabinet process, as we all know, is done with some confidentiality. We will treat it that way. We have told you that we are going to do something. It is on the legislation program. Settle down; relax; it will be all right. You will get a result. You will get a result which will be sensibly thought out, and one which will be in the better interests of the community. I seek your support for my amendment.

MR HUMPHRIES (12.06): Madam Speaker, I am less than assured by the Minister's comment that he has it all under control; that his cerebral energy is working overtime to produce a better result for us. I am afraid, Madam Speaker, that I am not confident at all. In fact, the panic button has been hit by comments like that by this Minister. I support the motion Mr Moore has brought forward. My own time in Government as Minister taught me that there is a considerable need for a program such as this; indeed, that there is a need for an expansion of the program.

Mr Berry: Why didn't you do it?

MR HUMPHRIES: The Alliance Government did go down the path of developing the pilot program that Mrs Carnell referred to. We did do that in government. It is now up to this Government to do something about the work that the former Government did.

Mr Berry: Yes, clean up the mess. That is what we have done. We have nearly all of it done.

MR HUMPHRIES: Your job is to put in place the program that you promised back in August of 1991. Are you going to do it? Madam Speaker, I have my doubts. I detect a very strong element of backsliding on the part of this Minister. We have had no clear statement from the Minister that he intends to do what he promised to do last August, before the election. We have had no clear indication that he intends to deliver what he has promised.

The amendment itself, I am afraid, spells out to me a great danger of backsliding, and I am afraid that I would like to know what it is that the Minister intends to do and when he intends to do it. It is not much to ask. It has been on the drawing board, presumably, since last August. Presumably, you have some idea of what is going on. Presumably, you know something about what is being developed by your department in this area. You have not told us anything about it in the Assembly today, which leads me to the view that, in fact, some kind of backflip is being prepared on this matter.

Mr Berry promises us confidently, "When I say that I will do something, I will do it". Madam Speaker, I am still waiting for the fifth ambulance he promised more than a year ago. Where is the fifth ambulance? I am still waiting for the additional beds you said the system needed before you took office last June. I am still waiting for the shorter hospital waiting lists, rather than the longer hospital waiting lists we have been delivered under your administration. In particular, I am waiting to see the end to the budget blow-outs that you said would not occur under your Government - - -

Mr Berry: They haven't.

MR HUMPHRIES: It has occurred under your Government. I am waiting to see all that, Madam Speaker. Mr Berry says that it is not going to happen. I am afraid that I have to get out my prediction that it will happen, and, indeed, it is going to happen very soon.

Madam Speaker, I think it is worth reflecting that methadone is an important tool in our fight against the increase in the harm associated with the use of drugs in our community. There is strong evidence that there needs to be an increase in the opportunities for patients to take part in that program. There clearly are more people wanting places than the number we can provide under the present arrangements. I as Minister fielded a number of pleas from members of the community wanting either themselves or close relatives to be involved in the program when they could not be involved. I think that the arguments in many cases were quite telling. Often I was told by my department that there was no space on the program and therefore the request had to be put to one side.

I think it is worth saying, though, that I am a little bit less starry-eyed, perhaps, than Mr Moore about methadone. Methadone, as Mr Moore pointed out, is, in fact, a drug. It falls in the continuum between tobacco and alcohol and heroin and LSD and other drugs. It is in that continuum. It is a drug; and having

people on the program does not mean that they are off drugs, as some people might imagine. It means that they are on a drug which is somewhat easier to control than other drugs, where you can - as I think someone said - stabilise the lifestyles of people on that program.

What disappoints me about methadone is that it does not result, to the degree that I would like to see, in people getting off drugs altogether, or getting onto acceptably low level drugs, perhaps. The level of complete abstinence and considerable reduction is very low. It might stabilise chaotic lifestyles, as Mr Moore indicated; but I would really like, ideally, to see a somewhat better achievement level than we get with methadone. I acknowledge that it is an important program. We cannot do without it for the time being and I think that the motion Mr Moore has put forward is a valid call on this Government to honour a promise it made to the community last year.

I also want to point out, in fairness, Madam Speaker, that Mr Berry's comments on pharmacists are somewhat undeserved. Mr Berry seems to have attacked the role that the pharmacists might play in this program. I want to indicate that no pharmacist in this community really wants to take part in a heroin trial, or a methadone program, for that matter. None of them want to do it, because no pharmacist really wants to have drug addicts coming into his or her shop to get their dose. They do it because they believe that there is a public interest to be served by doing that. That is why they are involved in it.

The average pharmacist, I am told, makes about $2 per dose out of that kind of arrangement. No-one is going to get rich on a $2 dose, from having people coming in to get hits in the shop.

Mrs Grassby: You get them in for one thing and you sell them two others.

MR HUMPHRIES: Perhaps they can sell them some hair spray or something at the same time, Madam Speaker; I do not know. The fact of life is that it is not going to be a matter of great profit to any pharmacist. They are involved in this process because they believe that it is important for our community to tackle the problem of drugs. That is why they are involved in it. I support their involvement in the program and I want to see this Minister produce the hard facts about the program that he promised to the community some time ago.

MRS CARNELL (12.12): Speaking very quickly to the amendment, I am concerned about the amendment. Leaving out the word "potential" seems to bring us back to our 107 current clients on the system. The potential clients that we are talking about are those other 93, or possibly more, that need to be on the program, that need to be given an opportunity to get onto our program. Quite honestly, at the moment the only sure way of getting onto the program quickly is to make sure that you become HIV positive, and that really has to be a problem - that that is the only way you get onto it the same day. If that is the way we are going to run a public health program in the ACT, we have real problems.

The comments that you made about pharmacists were interesting. Pharmacists are trained to dispense all sorts of medication to the public on a more general basis. Methadone is just another one. There are six pharmacists who have indicated that they would be willing to be part of this program. There is one in

every area of Canberra. They are willing to undergo training, at no cost to the system. They are willing to be part of consultation. They are willing to be part of information drives to get people to understand the program better, at no cost to the system.

They, on the whole, may have somewhere between five and 10 clients each, at somewhere in the vicinity of $2 a dose. At $10 a day, or $20 a day, depending on the number of clients you have, knowing that that includes quite a lot of patient involvement with the people concerned, I promise you that no-one is getting rich, just as they are not getting rich by being involved in the syringe exchange system.

MR MOORE (12.14): I will speak to the amendment and, if other members are willing, close the debate. One of the more disturbing comments made by Mr Berry was that this is a rehabilitation program. The methadone program at the moment does fulfil that function, and that is the ideal situation. We heard Mr Humphries say that one of the things that he is concerned about is that perhaps we are having difficulty in getting enough people to be rehabilitated, to be able to come right off their drugs; and, of course, that is what we would all want. That is the ideal as far as we are concerned, and that is what we should be working towards.

At the same time, if that is our only goal, if that is the limit of what we are going to attempt to do, we are going to increase the problems associated with illegal drugs. That is why a harm reduction approach has to go broader than that. Of course that is part of a harm reduction approach, and that was the point that I was trying to emphasise in the initial instance.

I think that the churlish comments that Mr Berry directed towards the pharmacists were entirely uncalled for, when those people have volunteered to deal with - - -

Mr Berry: I did not direct any comments at them. I said that it is not going to be in the interests of pharmacists; it is going to be in the interests of the community.

MR MOORE: I hear Mr Berry now interject with a quite different story from the way I had interpreted it. Therefore, I am delighted to see that he does recognise that the pharmacists would be acting in the interests of the community, and quite rightly so.

Mr Berry: No, the Government will be.

MR MOORE: And the Government will be acting in the interests of the community too. That is fine. The purpose of this motion is to ensure that we do it.

The difficulty with the amendment that Mr Berry put up is that if we remove the word "potential" we limit the motion to the clients that are currently in the program - about 107, as I recall. I think that is the figure. There are 107 or 112. It is one of those two figures. They currently are in the program. There was no time limit on the motion. We have given Mr Berry some room to move because we realise that it does have ramifications from a budgetary point of view. The potential clients are the important ones. The whole point of the motion is to try to reach more people.

We know that the methadone program at the moment is only a part of the general drug strategy in the ACT and that it is not meeting the general needs. That is why we talk about the potential clients. If Mr Berry had felt that he needed a bit more room to move and had wanted to remove the word "all" from the motion because of budgetary constraints, I would have been quite happy. Even commenting in that way in the speech, I imagine, gives Mr Berry room to move, knowing that such a motion cannot be actually binding on a government. However, it is an expression of the will of the Assembly and therefore is to be taken seriously. I accept the difficulty of having the word "all" in the motion and would have accepted such an amendment; but the word "potential" has to remain because of the very people we are trying to reach, the very people we are talking about.

Mr Berry: You are either on the waiting list or not on the waiting list.

MR MOORE: They are the potential clients. Mr Berry interjects, "Either you are on the waiting list or you are not on the waiting list". The point we are trying to make is that, when you operate a methadone program that has a series of different approaches that are much broader than the current methadone program, in fact you will increase the number of clients. It will reach people that the current methadone program does not suit, or does not satisfy, because of the way it operates. That is exactly the point that we are trying to raise; that the methadone program ought to be expanded to meet the needs of the potential clients. Some of the needs of those potential clients, probably quite a few of the needs, will be met by the pharmacy proposal, and that will free more space on the rehabilitation side. That could be part of the rehabilitation program as well. It would allow room for other people to go onto a methadone program in a different way.

As I say, I would be quite happy to remove the word "all" from the motion should you want to put that amendment; but I believe that it is inappropriate to accept the amendment you have put. If you delete the word "potential" and substitute the word "all", I would happily accept that.

Amendment negatived.

Motion agreed to.

HIGH SCHOOLS DEVELOPMENT PROGRAM

MS SZUTY (12.19): I move:

> That the newly elected ACT Labor Government implement at the earliest opportunity a high schools development program.

The Chief Minister has stated that health and education in the ACT will undergo a period of consolidation in this term of her Government. Yet one of the most urgent issues in public education at present remains to be addressed. This is the issue of the introduction of a high schools development program. I have raised this issue at this time because I feel that public high schools in the ACT have waited long enough for action to be taken.

To familiarise members with the background to some of this, little attention was paid to high schools when the ACT public education system was established in the mid-1970s. The focus in those days was secondary colleges - the need to treat young people in years 11 and 12 as young adults, doing away with school uniforms, and providing young people with generous curriculum options in educational institutions catering specifically for their needs. The resourcing of secondary colleges has continued to remain above the resourcing available for high schools in the ACT.

Since then we have had three years of self-government and the current Minister for Education, Bill Wood, has been in the position for some months. Since the time in the mid-1970s when the ACT public education system was established in its own right, high schools have been subjected to an everlasting run of reviews. A major report, produced some years ago now, was called "Cohesion, Co-ordination and Communication". The Belconnen region high schools task force reported in 1991 again and drew the community's attention, and the Government's attention, to the need to better resource high schools.

Public schooling enrolment figures have indicated for some time that it is in the high school years, from year 7 to year 10, that a greater majority of parents and students opt for a non-government school education, after having completed primary schooling in the government system, and often in years 11 and 12 return to the government system. The ACT Government, the Department of Education, high school principals, teachers, parents and students know what needs to be done to address the issues that particularly pertain to high schools.

I want to remind members of what some of these issues currently are. High schools definitely need improved student management in classrooms. The way to achieve this is to ease the staffing formula and allow high schools to address this problem. However, we find that high schools are under-resourced in terms of being able effectively to bring this about, even though the Department of Education supports an integrated resource model.

Due to continuing cutbacks in education over many years, schools are having to do more with less - particularly high schools. There are difficulties with the truancy of high school children in that there are no truancy officers to follow up students who are not attending school. Another major issue for high schools is the refurbishment program. They desperately need improvements to their school buildings, attention to maintenance and furniture replacement. High schools need to be more attractive and inviting places for young people to be to continue their education in those years. Another need is the familiarisation by school staff with services to young people in general available in the ACT. This will better assist them to meet the needs of the young people that they are working with every day in schools.

What is needed at the moment is a commitment by the Chief Minister and her Labor Government to address the issue of a high schools development program in this term of government, with adequate resourcing with which to do it.

MADAM SPEAKER: It being almost 12.30 pm, the debate is interrupted in accordance with standing order 77 as amended by temporary order.

Sitting suspended from 12.24 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Business Taxes

MR KAINE: I address a question to the Chief Minister and Treasurer. I refer to the Chief Minister's answer yesterday to my question in connection with borrowing to cover the potential $35m shortfall in next year's budget - and that is a minimum deficit, I presume - and I refer her also to her continued statements and platitudes about encouraging the private sector. Given those two factors, I again ask: Will the Chief Minister rule out introducing new taxes, or increasing existing taxes, on business to fund her potential budget shortfall, and will she give an undertaking that she will not place any new imposts on business in the Territory in the coming financial year?

MS FOLLETT: Madam Speaker, Mr Kaine's purpose in pursuing this tactic, if you could call it a tactic, I am afraid defies all logic. It defies all logic because, quite frankly, I think his own record on this matter must be a source of enormous embarrassment, not just to him but indeed to his party. **I**t is a fact that in the only budget which Mr Kaine has delivered he borrowed $43.4m and had revenue initiatives of $46m. So, Mr Kaine's only budget was a high borrowing, high taxing budget. For those of us who recall some of his revenue initiatives, as Mr Kaine clearly does not, they were, of course, the very things which he, now that he is in opposition, would consider to be not in the interests of the business community. They included an increase in payroll tax from 6 to 7 per cent - - -

Mr Kaine: I take a point of order, Madam Speaker. I asked the Chief Minister and Treasurer what her intentions are for the next fiscal year. We do not need a history lesson, because it is totally irrelevant to the question that I asked. I ask that you direct the Chief Minister and Treasurer to answer the question.

MS FOLLETT: I think some of these points are hitting home, Madam Speaker. It is a fact, of course, that Mr Kaine's record is not great. He borrowed and he taxed highly in his only budget. Mr Kaine has asked me again to pre-empt what I might do in the budget. As I said twice yesterday, I am not prepared to do that. I am simply not prepared to offer Mr Kaine any comfort on this matter. I will not pre-empt what will be in the budget. I have already outlined, through the forward estimates, what the task is in the budget. I have already said that we must wait on the Grants Commission outcome and on the Premiers Conference outcome, before we can define the parameters of that budget more closely. I am not prepared to go beyond that.

MR KAINE: I ask a supplementary question, Madam Speaker. Could I take it from the Chief Minister's answer that she does not intend to impose any additional taxes on the business community?

MS FOLLETT: I have stated, Madam Speaker, and I will state it for the umpteenth time, that I am not prepared to pre-empt what might be in the budget.

Zone Nightclub Promotion

MS ELLIS: My question is directed to the Attorney-General. The Zone Nightclub recently advertised a promotion for a "$10 all you can drink night". What is the Government's view of this?

MR CONNOLLY: I thank Ms Ellis for her question. Members may have heard ads on commercial radio in Canberra promoting a function at the Zone Nightclub described as the "crazy $10 all you can drink Thursday night", stating, "No, it's not just middies of beer or weak spirit jugs. Just rock on in with 10 bucks - you'll party hard and drink what you want".

Mr Lamont: With the GST it would cost you $20.

MR CONNOLLY: While there is an element of mirth detected in the chamber and, as Mr Lamont indicates, with GST it would cost rather more, this is a serious matter. While I do not think any of us in the chamber would be described as wowsers, there is an appropriate time and place for alcohol promotion, and an appropriate limit.

I think all members would encourage, as the Government does, safe drinking. My colleague Mr Berry, within his portfolio, is bringing forward ranges of initiatives to promote healthy use of alcohol and safe and sensible use of alcohol. This type of promotion which encourages people quite expressly to go in and drink to excess can only be seen as irresponsible because it is encouraging excessive drinking, binge drinking and then getting out onto the roads in the community.

The Government has, through its licensing section, expressed to the licensee of these premises its concern about this type of advertising, this type of promotion. We have reminded the licensee that it is an offence under the Liquor Act to sell liquor to a person who is intoxicated. We will have inspectors present at this promotion to look both for breaches of that section of the Liquor Act and for under-age drinking, and we would hope that this type of promotion of binge drinking would be actively discouraged.

It should be pointed out that in Victoria in recent months there have been similar campaigns and promotions, in particular a practice called "lay-back" in which a person lies on the bar and has alcohol poured down his throat by patrons, which has resulted in deaths. So, binge drinking promotions are most irresponsible. The Government does take a dim view of this promotion because it is quite inconsistent with the good work that is being done in Mr Berry's area in relation to healthy drinking and healthy use of alcohol. We will have inspectors out and about for this function, and we will be looking actively for breaches of the Liquor Act.

Government Purchases

MR DE DOMENICO: Madam Speaker, my question is directed to the Chief Minister. I am sure that the Chief Minister agrees with her numerous statements from time to time that the expansion of employment in the ACT and the region will have to be generated in the future by the private sector. If she does so agree,

will the ACT Government set the example in relation to purchasing its own requirements from local businesses in Canberra and the region where these requirements in goods and services are available and competitive?

MS FOLLETT: Madam Speaker, Mr De Domenico has raised a very interesting point. It is certainly a point that was addressed at least in part during the Labor election campaign. There are difficulties, though, I believe, in constraining trade between States. Nevertheless, I believe that there is a great deal that can be done in ensuring that the ACT product matches the ACT and other known demands. It was with that in mind that I put forward, during the election campaign, the idea of a supply and tender agency. That is an idea that the Government will be pursuing very actively. It seems to me that where an ACT business can supply goods, particularly if they are goods required in the ACT, then the matching of those goods would be very much to the advantage of our own local industry without being in breach of those constraint of trade arrangements. It is certainly a matter which the Government will be giving close attention to.

Griffith-Narrabundah Primary School

MS SZUTY: My question is addressed to the Minister for Education, Mr Wood. Would the Minister confirm his commitment to the continued viability of the Griffith-Narrabundah Primary School joint campus, and in so doing would the Minister please comment on the ongoing maintenance of both sites and an apparent oversight regarding the separate listing of a telephone number for the Narrabundah campus which was not included in the most recent edition of the Canberra telephone book and which is not accessible using the telephone information service?

MR WOOD: Madam Speaker, I am very happy in this Assembly, as I have done outside the Assembly, to reaffirm most emphatically that neither campus will close. I believe that they are functioning well. Some people in that area have pointed out difficulties to me and I have been looking at those, while I am not necessarily conceding that they are quite the difficulties that they indicate.

Maintenance on the school, I have been informed, has been carried on consistent with the cyclical maintenance that occurs around all our schools; that is, there has been no neglect of either one of those campuses. Nevertheless, I have instigated certain action to see that maintenance continues to be carried out. In some specific instances, some work has rapidly been done and other work will follow.

I do not know about the telephone number. It is up to the Education Department, I should imagine, to put that in the telephone book. I do not really know the procedures. It is unfortunate if one campus has dropped out of the book. The other thing to be said in respect of Griffith-Narrabundah is that it was a pilot program. I think Mr Humphries would agree with that. The program was to be reviewed. In view of the comments that have been made around the campuses, I have hastened that review, which will give us a very careful look at what is happening.

Narellan House

MR CORNWELL: My question is also addressed to the Minister for Education and Training. It concerns the imminent closure of Narellan House, which TAFE students have been asked to vacate by this Friday, 10 April. I ask Mr Wood: Is it a fact that the eviction notice which was served on 17 March is defective because it cannot give the necessary 28-day warning period under subsection 64(1) of the Landlord and Tenant Act for residents of over 18 months' tenancy? Would you therefore stay the eviction request for such tenants?

MR WOOD: I do not think eviction is going to be necessary. It is my understanding - and I have checked it again today, as I have checked it every day recently - that all students will be leaving voluntarily by this Friday. There was a - - -

Mr Cornwell: No. They have been evicted.

MR WOOD: I do not think you have ever disputed the action that we have taken there, have you?

Mr Cornwell: I am disputing the legality of it right now.

MR WOOD: The information I had was that they were advised on 10 March about the closure - - -

Mr Cornwell: Which was found to be defective.

MR WOOD: My date is 10 March, but I will further check whether that was the formal legal notice. Subsequently we did return a notice by name rather than a general overall information about the closure, but again that does not reflect the way this has been handled. We announced last December that the place was going to close, for very good reasons. That was done after the most careful consultation with the people who operate the place and live in the place. It was done after I had numbers of conversations with people in the community who would have an interest in that. So, it was very properly and carefully negotiated at that time.

That pattern has continued since. It is not that we think that we want to go down the path suddenly of plonking a legal notice on the door stating, "You have to get out". Students have been consulted at all times. We have placed officers from TAFE there to negotiate with the students and to say, "Now we will find you a place". It is my understanding that all students who want a place have been found an alternative place. We have been as helpful as we can in the circumstances. We do not like to say to students who have this accommodation, deficient though it is, that they have to go. But that is the fact of life - they need to go.

So, we have negotiated with students. It is not always easy to catch up with students, mind you; but we have negotiated with students. We have found them alternative accommodation at the best possible rates, certainly at average student rates or less - for example, in Sylvia Curley House - and we have facilitated their transfer. In some cases we are prepared to provide a bond where the students simply do not have that little bit of cash that is needed to provide a bond. In other circumstances, if necessary, we will help them shift. So, this has been the way that we have done it.

I do not want - and I repeat this because it is so important - Mr Cornwell to think, as the nature of his question would suggest, that we have acted by slapping legal notices on Narellan House. That may have been necessary if students were reluctant to leave; but it is my clear evidence that all students are moving voluntarily, and I think in the end they will acknowledge the assistance that we have given to them in making that move.

MR CORNWELL: I ask a supplementary question. Mr Wood, you do concede that some students may have been reluctant to leave and that therefore it may have been necessary to serve a notice on them. Would you please investigate this matter in relation to my question? If any of those students have been there longer than 18 months, then clearly any eviction notice is in breach of the Landlord and Tenant Act, subsection 64(1).

MR WOOD: I will do that because I am very keen to do everything I can to help these students, and to do it properly. Let me also state that not every student at Narellan is a TAFE student. It has gathered no small number of people from other areas because there have been vacant rooms and because the rent has been $38 a week - an exceedingly low rent which reflects the rather appalling conditions at the place. But in the spirit of peace and harmony that has pervaded all our actions, I will continue in the way that you request.

Osteoporosis

MRS GRASSBY: My question is addressed to the Minister for Health. With our ageing population, Mr Berry, an increasing number of women in Canberra - and, I am sure, all over Australia and around the world - are suffering from the disease of osteoporosis. Is it true that many of these women are not aware that they have it? What chances have they for preventive action? Are they not being told anything about this, or is there a chance of some way they can be told?

MR BERRY: This is indeed an important question, and it is timely that it should be raised when there has been some outrageous scaremongering by the Liberals. The Liberals are not bad at scaremongering, but they are not very good at sitting and listening to the answers to quality questions. The Labor Government has an excellent track record in initiating and supporting health programs that focus on preventing the development of this debilitating disease. If you had gone to the show, you would have seen ACT Health's nutrition stand - "Calcium for Every Body". While preventing osteoporosis and - - -

Mrs Carnell: No, it does not, Wayne. It does not prevent osteoporosis.

MR BERRY: Hang on a minute. At the Canberra show the stand was "Calcium for Every Body", while preventing osteoporosis and promoting calcium rich foods featured on the *Canberra Times* colour wraparound show souvenir.

The community nutritionist-dietitians recently have produced, through the ACT Health Promotion Fund, a pamphlet on osteoporosis and diet, and there are other publications available on calcium rich foods. The nutritionist-dietitians also offer individual diet counselling at health centres, which includes advice on preventing

osteoporosis. This is a quite different picture from what the Liberals tried to paint, what Mrs Carnell tried to paint in recent news releases. She tried to paint a picture that there was absolute and uncaring Labor government. That will never be the case.

The ACT Women's Health Service and the ACT Women's Health Advancement Service offer services that provide information on prevention of osteoporosis. Did you say that? No, you did not say that. These are mostly done through menopause courses, workshops and information sessions. There was eloquent silence from Mrs Carnell on these issues. The Health Advancement Service also provides health assessment and lifestyle counselling to clients that, once again, includes information on calcium rich foods and how to prevent osteoporosis developing. She did not tell us that either. Scaremongering, Madam Speaker - scaremongering in the extreme.

Another initiative funded jointly by the Commonwealth and the ACT was the production of the *Menopause Book*, an information book on preparing and coping with menopause. Mrs Carnell did not mention that. Included was detailed discussion of osteoporosis, its prevention and proper diet.

Mr De Domenico: What has menopause got to do with osteoporosis?

MR BERRY: I am glad that he is not your health spokesperson. Mr De Domenico says, "What has menopause got to do with osteoporosis?". It is a good thing that he is not the opposition health spokesperson. The book was widely distributed in the ACT and was so popular that another print run is planned. So, we are doing things. We are on the job.

Mrs Carnell's claim that the densitometry services or bone density measurement should be made available and able to be claimed on Medicare are way off beam. She does not understand the issues, and she never puts all the facts on the table. She ignores the facts in most of her press scaremongering. Firstly, the Opposition is focusing on diagnosing osteoporosis through densitometry - - -

Mr Kaine: I raise a point of order, Madam Speaker. I request that you have a look at standing order 118, which does not prescribe four-page written responses to dorothy dix questions.

MADAM SPEAKER: It does prescribe that the answer shall be concise and confined to the subject matter. I think Mr Berry is on the subject matter. I think Mr Berry will be finishing his answer soon.

MR BERRY: It is a very important issue and men would not be concerned about this, and they would want to cut my answer short. They would want to cut it short, would they not, Mr De Domenico? This is an important issue and it requires a full explanation. Firstly, the Opposition is focusing on diagnosing osteoporosis through densitometry and ignoring the important issues of prevention and appropriate management - issues the ACT Labor Government has taken on board. Secondly, independent advice to the Federal Government - - -

Mr Kaine: Have you another two pages to go yet?

MR BERRY: Wait until I am finished the answer to the question. All you have to do is just sit and listen. Just be quiet. Secondly, independent advice to the Federal Government is that the evidence is inconclusive that low bone mineral content is a good predictor of increased risk of fracture - a major health problem arising from osteoporosis - and there is no consensus yet on an effective treatment for people with low bone mineral content in the middle and older age groups.

Mrs Carnell: You have not read anything since 1989.

MR BERRY: That is the evidence that is coming from the Federal Government and they are, after all - - -

Mr De Domenico: They are all medical experts, are they?

MR BERRY: I would have to say that they would be much better at coming to a conclusion in relation to this matter than Mr De Domenico, and I am sure they would accurately report what is being done in ACT Health, which is something that Mrs Carnell has not done. The ACT supports the Federal Government, which is working to develop a comprehensive strategy, not a knee-jerk one, which addresses the prevention and effective diagnosis and management of osteoporosis.

Mr De Domenico: They have only been there for about 10 years.

MR BERRY: I would not say too much, Mr De Domenico. It is obvious that you do not know much about the subject. Of course, what we will be setting out to do is to best serve the needs of both men and women at risk of developing osteoporosis. I can see that many of the Liberals were not interested in the issue. They were interested only in the stunt, Madam Speaker.

Respite Care Services

MR HUMPHRIES: My question is addressed to the Minister for Community Services. It concerns people who use respite care services in the Territory. Is it the case that young intellectually handicapped women from time to time using respite care overnight do so when only male staff are available to attend them? Is it the case that those male staff are required on occasions to bathe and dress these women and assist them with personal hygiene? Does the Minister regard this as acceptable within our community service sector and, if not, what does he propose to do to cease the practice?

MR CONNOLLY: I thank Mr Humphries for his question because respite care is a very important service to the community, and a service which is increasingly being stretched, although the Labor Government, to its significant credit, in the very tight budgetary situation of last year was able to maintain in real terms funding to the community sector in these areas. Whereas cutbacks occurred in other areas, we were able to maintain in real terms this important service. The practice within the Community Services Bureau is that there be sex appropriate carers for persons in respite care; so the practice is to have female staff present where there will be female patients or female clients.

I understand that there have been occasions when that has not been the case, although I am not aware that in those circumstances there has been bathing or such intimate contact. I am aware that the carer has from time to time been a male person when an overnight female client has come in. As members would understand and as Mr Humphries would certainly understand, particularly if there is urgent respite care, sometimes the actual client load will not be the expected client load because of the arrival of someone who has to be cared for short term.

Yes, I am aware that this is an issue of concern. The practice is that we have gender appropriate carers. From time to time I have been aware that there has been a male carer with a female in care. The issue that Mr Humphries raises in relation to bathing or intimate contact I will have investigated, and I will report more fully to him at an appropriate time.

Waste Watch Hotline

MR STEVENSON: My question is addressed to the Chief Minister and concerns the waste watch hotline that was set up early in March. I commend the Minister for implementing a system to allow Canberrans a greater involvement in government, particularly one that can result in cost savings and efficiency. Could the Chief Minister provide me with the following details: Approximately how many phone calls have been received; as a result of these phone calls have any areas been identified where economies can be made; and have any changes yet been implemented?

MS FOLLETT: Madam Speaker, I thank Mr Stevenson for the question and I also thank him for giving me some forewarning of the detail of it. Since the waste watch hotline commenced on 11 March, some 129 calls had been received up until 7 April, yesterday. So, obviously, members of the community appreciate the service and are very keen, as is the Government, to eliminate waste and duplication and to advise where they see that occurring.

The calls have covered a very wide range of issues. The main areas that we have heard about so far concern recycling, housing, public transport, the maintenance levels of roads, footpaths and parks and so on, and, of course, staffing matters. Madam Speaker, in every instance where we are advised of the name and address of the caller, the caller will receive a reply. Nevertheless, in every instance of a call, the report is investigated. In fact, I see every day the outcome of that day's calls.

It is too early to judge at the moment what might be the magnitude of change that would result from our having the hotline, but it is very clear that it is providing a useful service and a useful indicator of where the community sees waste occurring. The waste watch hotline reports will be put to budget Cabinet and I expect that, if there are areas where Ministers especially can identify that efficiencies can be made as a result of those reports, they will look to do that in the budget context.

Health Business Rules

MRS CARNELL: My question is addressed to the Minister for Health, Mr Berry. Over the last two days, the Minister has waxed lyrical on a number of occasions about his business rules which seem to turn budget blow-outs into agreed supplementation. Can the Minister outline how these business rules governing Treasury supplementation to ACT Health differ from the principles allowing supplementation to other areas of ACT government and why these differences were deemed necessary?

MR BERRY: Thank you, Mrs Carnell. I appreciate that question. There is a requirement for a short history lesson because there is a - - -

Mr Kaine: Here we go. I would draw your attention to the Audit Act, amongst other things, and the Appropriation Bill, too.

MR BERRY: A short history lesson is always necessary because the Liberals have selective memory loss on this question. The business rules became necessary because of the mismanagement of Health finances by the Liberals and it was necessary again for the Labor Party to put a shoulder to the wheel and clean up the mess. We, of course, set out to ensure that there was a set of business rules which suited the needs of Health. I am satisfied that those business rules that were adopted and agreed to between Treasury and Health are consistent with those needs. It is a matter for other Ministers to determine what business rules they might have between their various departments and Treasury.

What I am interested in is providing a set of business rules which suit the needs of Health. I think they admirably suit because, through those rules, we have been able to ensure that there has been proper management of finances within Health, and we have been able to track the progress of the health budget from day one. That has been possible only because I have directed that information be provided to me in a form which is easy to understand - something that the Liberals have not been able to manage yet, but most other people understand it, I assure you.

Mr Kaine: And you can obscure a blow-out when it occurs.

MR BERRY: Mr Kaine complains about a blow-out and how it might be obscured. There has been no obscuration of blow-outs in the Health budget. We have made it very clear from day one that the Minister was fully aware of what was going on in Health at all times. That is something that is in stark contrast to what occurred when you were the Treasurer. I remember well the time in another part of the history lesson when we asked the questions in here about what was going on in Health. Mr Kaine said that he was not sure but he was sure that he would have been told if something was wrong. This was about the time when we were well into the $17m blow-out.

Mr Humphries said that he would not even put energy into checking it because it was only a Labor stunt. Then all of a sudden we were informed of $17m out of control. That is because they were unable to manage the Health finances. Labor has done it well. I am sorry if you are uncomfortable with it, but you had better get used to it because we are going to continue to do it well.

In relation to the business rules, you need to understand that they are a set of rules which were developed between Health and Treasury. They suit Health's needs and Treasury's needs, and they are consistent with good management of

Health finances - something that had not existed under the control of Mr Kaine. The issue of business rules for other areas of government is a matter for consideration by other Ministers.

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

TEMPORARY DEPUTY SPEAKERS

MADAM SPEAKER: I inform the Assembly that, pursuant to standing order 8, I have nominated Mrs Grassby and Mr Westende as Temporary Deputy Speakers. They will take the chair when requested by either me or the Deputy Speaker. I present to the Clerk the warrant nominating Mrs Grassby and Mr Westende.

PAPERS

MR BERRY (Deputy Chief Minister)**:** For the information of members I present, pursuant to section 58 of the Audit Act 1989, the ACTION annual report 1990-91, together with the ACT Transport Trust Account financial statements and the Auditor-General's report; pursuant to section 93 of the Audit Act 1989, the Milk Authority annual report 1990-91, together with the financial statements and the Auditor-General's report; the National Exhibition Centre Trust annual report 1991, together with the financial statements and the Auditor-General's report; pursuant to section 97 of the Audit Act 1989, the Canberra Public Cemeteries Trust supplement to the annual report of 1990-91, together with financial statements and the Auditor-General's report; and, pursuant to section 47 of the Legal Aid Act 1977, the Legal Aid Commission annual report 1991, together with financial statements and the Auditor-General's report.

ABORIGINAL DEATHS IN CUSTODY
Ministerial Statement and Papers

MS FOLLETT (Chief Minister and Treasurer): Madam Speaker, I ask for leave of the Assembly to make a ministerial statement on the Government's response to the Royal Commission into Aboriginal Deaths in Custody.

Leave granted.

MS FOLLETT: I thank members. Madam Speaker, today I am pleased to table in the Assembly the ACT Government response to the Royal Commission into Aboriginal Deaths in Custody. I am also tabling for the information of members the full response of governments across Australia to the 339 recommendations of the royal commission and an overview of those responses compiled by the Commonwealth. The tabling of these documents signifies a new and challenging era in Aboriginal relations in the ACT. With this in mind, I am pleased to see that there are representatives of the local Aboriginal community, including members of the Bogong Regional Council, here in the chamber today for this occasion.

The royal commission was established in October 1987 to investigate the number of deaths in custody of Aboriginal and Torres Strait Islander people and the lack of satisfactory public explanations of the cause of deaths. The commission investigated the deaths of 99 Aboriginal and Torres Strait Islander people between 1 January 1980 and 31 May 1989. The commission inquired into not only how those people died but also why they died. In doing so, it took into account social, cultural and legal factors which may have had some bearing on those deaths. This investigation revealed that the major cause of the high number of deaths in custody is that the Aboriginal population is grossly over-represented in prison and police cells. The commission's study of police cell custody in August 1988 revealed that the rate of Aboriginal and Torres Strait Islander imprisonment was 29 times that of the general population.

The commission's report tackled the problem of the disproportionate number of Aboriginal people in custody in two ways. Firstly, it dealt with the criminal justice system itself; and, secondly, it dealt with the underlying causes which result in Aboriginal and Torres Strait Islander people coming in contact with that system. The report found that the most significant reasons for the high numbers in custody was the disadvantaged and unequal position of these people in society socially, economically and culturally. The main emphasis of the report is that the elimination of such disadvantage requires the empowerment of Aboriginal and Torres Strait Islander people. They must be returned the control of their lives and their community.

The 339 recommendations of the royal commission deal with areas such as law and justice, education, employment, health, housing, infrastructure and land. The recommendations are aimed at redressing the disadvantages Aboriginal and Torres Strait Islander people have suffered and continue to suffer in our society and at empowering them to determine their own futures.

The governments of Australia have carefully considered these recommendations since the final report was released in April 1991 and, in consultation with the Aboriginal and Torres Strait Islander community, have each developed their responses. In doing so they have given support to the vast majority of the royal commission's recommendations. The tabling of these responses marks a step towards tackling the injustices that have led to such an unacceptable number of Aboriginal and Torres Strait Islander people being placed in custody.

The royal commission's recommendations are highly relevant to this Territory. Aboriginal people remain among the most disadvantaged in our community. Our response is also important for the large number of Aboriginal people who travel to the ACT to use its services and for Australia as a whole in our role as the national capital. It is sometimes felt in Canberra that issues raised by the royal commission are not relevant to us. I have met with representatives of the Aboriginal community several times over the past 12 months and, despite common misconceptions, I know that Aboriginal people living in the ACT face very real difficulties.

They have told me of the frustration they experience when trying to gain access to health care, housing and quality education. In their efforts to gain and maintain a decent standard of living, they face many of the same individual and institutionally entrenched prejudices as Aboriginal and Torres Strait Islander

people throughout Australia. In my meetings with local Aboriginal groups, I have been told that they are called out many times each week to visit people in such places as the City Watch-house, the Belconnen Remand Centre and the Quamby Youth Centre.

It is because I have heard evidence of these problems and know of their effects on Aboriginal lives that I am so pleased to table the ACT response to the recommendations of the royal commission. The ACT response makes a number of positive and practical commitments to improve services and allow greater access to them. It also refers to the important advances that have already been made in such areas as legislative reform, policing and health.

I turn, Madam Speaker, to empowerment of Aboriginal and Torres Strait Islander people. A major theme running through the royal commission's report is the need for empowerment of Aboriginal and Torres Strait Islander people at both the individual and community levels. I believe that this issue is vital. Accordingly, each of the initiatives proposed in the ACT response will involve Aboriginal people participating from the earliest planning stages to final implementation. In every instance my Government is committed to full and thorough consultation. Furthermore, my Government will endeavour to involve Aboriginal people in the running of programs and delivery of services which affect them in order to guarantee the highest possible level of self-determination for their community in the ACT. With this goal in mind I have already proposed to members of the Aboriginal community the establishment of a high-level mechanism for communication with the ACT Government.

My proposal is for a broadly based representative advisory council which will meet regularly and report directly to me on matters of concern to the community. I am looking forward to developing such a link and I feel certain that this type of cooperation will enable positive and lasting achievements by and for Aboriginal people.

I turn to the issue of policing. The ACT response shows that the standards of policing and the procedures in place in the ACT are of a high order and that policing practices in the ACT are largely consistent with the recommendations of the royal commission. The Government is committed to reviewing procedures and taking action in areas where change is required. I am especially pleased to note that the ACT has a Police-Aboriginal Liaison Committee. This committee meets every two months and provides an opportunity for the community to discuss their concerns with the police.

In addition, there is an Aboriginal Liaison Committee comprising members of the Police-Aboriginal Liaison Committee and other members of the Aboriginal community. The members of this committee are rostered on call 24 hours a day in a voluntary capacity. Police endeavour to contact a member of the committee whenever an Aboriginal or Torres Strait Islander person is placed in custody.

I turn to custodial facilities and procedures. Clearly, Madam Speaker, as identified by the royal commission, custodial facilities and procedures are high priority areas for further action. Throughout the response, my Government has maintained a commitment to improving the procedures and guidelines which govern how police and custodial officers deal with Aboriginal people. This commitment is evidenced through initiatives such as a review of health screening documentation and risk assessment procedures relating to people entering

custody and the development of protocols and procedures for the collection and exchange of information between the Australian Federal Police and ACT Corrective Services. It is explicitly stated in the ACT response that all of these processes will involve close consultation with local Aboriginal communities.

The Government is also determined to ensure that the physical conditions faced by detainees are of the standard recommended by the royal commission. While substantial improvements have already been made in response to the commission's interim report - that is, the Muirhead report - the Government has identified the need for further improvements to raise the standard of care in police watch-house cells and custodial facilities in the ACT. As well as measures to ensure physical safety and reduce the risk of self-harm, the response makes a commitment to provide Aboriginal and Torres Strait Islander detainees with emotional and social support through visits from Aboriginal health and legal services and to provide special training for official visitors.

I refer next to proclaimed places. Linked with these initiatives to reform and improve custodial facilities in the ACT is the desire to provide alternative, non-custodial facilities to allow for the proper care and treatment of intoxicated people. In considering options for establishing such proclaimed places, my Government will consult with the local Aboriginal communities as to the most appropriate and culturally sensitive model.

I turn to legislative reform. In a number of areas the Government has made a commitment to legislative change to meet the royal commission's recommendations. The need for reform in the area of coronial responsibilities and the law governing coronial inquests is dealt with in detail by the royal commission and is addressed in the ACT response. The Coroners Act 1956 will be substantially amended to fully implement these recommendations. Legislation enforcing the principle that imprisonment should be utilised only as a sanction of last resort is also being prepared. Legislative issues which require further consideration and consultation with the local community include the recognition of Aboriginal customary law as well as matters relating to liquor consumption, licensing and control.

In the area of health, the ACT Government currently funds the Aboriginal Health Service, which provides medical and related health care services to Aboriginal people in the ACT and the surrounding region. The Government's funding of this service demonstrates its ongoing commitment to the principle, supported by the commission, that the current state of Aboriginal and Torres Strait Islander health must be addressed through the provision of services and advice by members of their own community. The ACT Government plans to expand the role of the service through participation in the national Aboriginal health strategy. The Government will also be consulting closely to identify ways in which it can further improve health services available to Aboriginal and Torres Strait Islander people.

In the area of housing, the ACT Government is currently developing an Aboriginal housing policy which will address issues such as awarding contracts to Aboriginal groups and increasing their involvement in the development of housing generally. Crisis accommodation assistance for the Aboriginal community in the ACT and the surrounding region is being pursued as a priority under the national Aboriginal health strategy.

In respect of education, the royal commission gave particular emphasis to youth and the need for the education system to meet their specific needs. In line with these recommendations, the ACT will continue its ongoing consultation with Aboriginal organisations in the development of schools curricula. The newly introduced Aboriginal student support program will be continued and by 1993 positions for an Aboriginal education assistant and an Aboriginal home-school liaison officer will be established in the Department of Education and Training.

I turn to cross-cultural training. If the Government is to better serve the community, it is vital that people working within the Government Service are sensitive to the particular needs of Aboriginal people. Training in cultural sensitivity will therefore be introduced across the ACT Government Service, with particular areas being targeted for special training. I am pleased to note that teachers, juvenile justice staff and police currently receive training in Aboriginal culture.

I refer now to data collection. Many of the commission's recommendations highlighted the need for the collection of better data. This is a priority for both the ACT Government and the Aboriginal and Torres Strait Islander community. Our current lack of statistics too easily allows these people to be invisible. Such statistics are needed if we are to effectively respond to the needs of the community. The ACT is committed to improving the collection of statistics in a wide range of areas, including health and the criminal justice system.

Finally, I mention monitoring. It is essential that the implementation of the commission's recommendations be closely monitored. All ACT government agencies will therefore be required to report against the recommendations in their annual reports. The ACT, along with all other governments in Australia, will be participating in the cross-tabling of reports against the recommendations in parliaments across the nation. Aboriginal and Torres Strait Islander people must play an integral part in the monitoring process. The Government will work closely with the local Aboriginal community to ensure that an effective mechanism is established to provide for this.

In conclusion, Madam Speaker, I trust that the Government's response to this important and far-reaching report receives the bipartisan support of this Assembly. I believe that such support will be necessary if we are to unite to successfully tackle the findings of the royal commission. Madam Speaker, I present the following papers:

Aboriginal Deaths in Custody - Royal Commission -
Ministerial statement, 8 April 1992.
Overview of the Response by Governments.
Response by Governments - Volumes 1 to 3.
Response by the ACT Government.

I move:

That the Assembly takes note of the papers.

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

PERSONAL EXPLANATION

MRS CARNELL: Madam Speaker, I wish to make a personal explanation under standing order 46.

MADAM SPEAKER: You need to seek leave first.

MRS CARNELL: I seek leave.

Leave granted.

MRS CARNELL: I believe that Mr Berry, during question time, misrepresented my views about osteoporosis. He suggested that I did not bring to the notice of the community the benefits of calcium and the benefits of diet in preventing osteoporosis. Mr Berry will be very well aware that calcium does not prevent osteoporosis in a number of people, particularly people who are genetically predisposed to the condition. In the press release that I put out on the - - -

Mr Connolly: I raise a point of order. Madam Speaker, under standing order 46 a personal explanation can be made but such matters may not be debated. Mrs Carnell seems to be debating the merits or demerits of calcium and the various forms of treatment.

MRS CARNELL: Mr Berry was very personal in his attack during question time.

MADAM SPEAKER: Mrs Carnell, if you could confine your remarks to an explanation, that would be good.

MRS CARNELL: For sure. Calcium does not prevent osteoporosis in people with genetic predisposition to the condition. My position on densitometry is that it should be made available to women who need the screening process. Those are women who cannot, for medical reasons, get oestrogen therapy, who should not use oestrogen therapy - - -

Mr Connolly: On a point of order: Madam Speaker, standing order 46 allows members to say where they were misrepresented and to get their views on the record. It expressly does not allow matters to be debated. Mrs Carnell is entitled to make her point that she feels that she was misrepresented, but she is not entitled to entertain us with a treatise on the merits or demerits of calcium.

MADAM SPEAKER: Mrs Carnell, I would refer you to that standing order and ask you to confine your remarks to a personal explanation, please.

MRS CARNELL: Mr Berry, in his statement, made continual references to what I believed or what I had said about densitometry and about the treatment of osteoporosis. I do not really know how, without answering those comments that Mr Berry made about my opinions on osteoporosis or whatever, I can answer the question at all. Unless I can make a comment on what my position is, what can I say? That is all I am asking. I am making the comment on my position on osteoporosis and what densitometry availability in the ACT should be. Do I have leave to continue?

MADAM SPEAKER: I will listen carefully. Please proceed, Mrs Carnell.

MRS CARNELL: My position on densitometry is that it should be made available to women who, for medical reasons, cannot take oestrogen, either peri-menopausally or post-menopausally. This is medically sound. Those women are not in a position to use calcium on its own. It just does not work. Therefore, densitometry is a women's issue. Certainly, densitometry is not covered by Medicare. Mr Berry also made the comment that I believed that it was. It is not covered by Medicare because the Federal Government, yet again, has ignored women's issues. The fact is that densitometry should be available, and I believe that it should be available to women - - -

Mr Connolly: On a point of order: Whether densitometry should be available is really a debating point. Mrs Carnell should perhaps read the way Mr Humphries responds to these matters. He concisely says where he believes he was misrepresented and does not enter into a debate. That is the way it should be done.

MRS CARNELL: I have said what I wanted to say. It is all right.

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

MRS GRASSBY: I present report No. 1 of 1992 of the Standing Committee on the Scrutiny of Bills and Subordinate Legislation, and I seek leave to make a brief statement on the report.

Leave granted.

MRS GRASSBY: The report I have just presented contains the committee's comments on 57 pieces of subordinate legislation. I commend the report to the Assembly.

CONSTITUTIONAL RECOGNITION OF THE SUPREME COURT AND JUDICIAL TENURE

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.25): I move:

> That the Legislative Assembly for the Australian Capital Territory requests the Commonwealth Parliament to:

(1) amend the *Australian Capital Territory (Self-Government) Act 1988* by inserting a new Part, "PART VA - THE JUDICIARY", to provide for:

(a) the existence of the Supreme Court of the Australian Capital Territory having all original and appellate jurisdiction that is necessary to administer justice in the ACT and jurisdiction conferred by an Act, law of the Territory or Ordinance, provided that the Supreme

Court shall not be bound to exercise any powers where it has jurisdiction concurrently with a lower court or tribunal, unless it is so required by legislation or Rules of Court.

(b) the removal from office of a judicial officer or member of a tribunal by the ACT Executive, but only at the request, by resolution, of the Legislative Assembly for the Australian Capital Territory acting in accordance with a report of a Judicial Commission, in which the Commission concludes that the behaviour or physical or mental capacity of the judicial officer or member of the tribunal concerned could amount to proved misbehaviour or incapacity such as to warrant removal from office.

(c) a Judicial Commission to have the function of investigating and reporting to the Attorney-General on allegations or complaints concerning the conduct or capacity of:

(i)a Supreme Court Judge other than an additional Judge;
(ii)the Master of the Supreme Court;
(iii) a magistrate; and
(iv)any other specified judicial officer or member of a tribunal.

(d) a Judicial Commission to be constituted by persons:

(i)who are or have been Judges of a superior court (other than serving Justices of the High Court of Australia or serving Judges of the Supreme Court (other than additional Judges)) of the Commonwealth, or of a State or Territory; and
(ii)who are appointed for such terms as are fixed in accordance with ACT law.

(e) a Judge and Master of the Supreme Court to be paid such remuneration as is determined by the Remuneration Tribunal.

(f) if no such determination is in force, a Judge and Master of the Supreme Court to be paid such remuneration as is specified under an enactment.

(g) the remuneration of a Judge and Master of the Supreme Court to not be diminished during the Judge or Master's continuance in office.

(h) the retiring age of judicial officers of the Supreme Court to not be altered during a judicial officer's continuance in office without the consent of the judicial officer.

(2) amend the *ACT Self-Government (Consequential Provisions) Act 1988* by inserting in Part II a provision that the terms and conditions of transferring Judges shall be no less favourable than those of the Judges of the Federal Court of Australia; and

(3) amend the Federal Court of Australia Act 1976 to:

(a) permit the acceptance by Judges of that Court of commissions as additional Judges of the ACT Supreme Court; and

(b) confirm the continuation of the appointments as additional Judges of the ACT Supreme Court held at the time of transfer of the ACT Supreme Court.

This action is a significant step forward in the self-government process. The self-government Act can rightly be regarded as the constitution of the Territory. The amendments which are requested by this motion will make that constitution a more complete and effective document.

When the Commonwealth first drafted the self-government Act, it did not propose to transfer the court system to Territory responsibility. Amendments in the Senate changed that approach, and in accordance with the amended legislation the Magistrates Court has already transferred to the Territory, and the Supreme Court will transfer on 1 July of this year.

The self-government Act, in creating an ACT body politic, provides for the existence and powers of two of the arms of government that are traditional in Westminster-type systems, namely, the legislature and the executive. It is silent on the third arm of government, the judicature. It is now, as a prelude to the transfer of the Supreme Court, an appropriate time to address that situation.

The motion members have before them is a proposed request by the Legislative Assembly to the Commonwealth Parliament that it amend the necessary legislation to provide constitutional safeguards for the Supreme Court and the judiciary. The document has been prepared in consultation with the Commonwealth and indeed the judges. I will say a few words about the main provisions.

Section (1) provides safeguards for the existence and jurisdiction of the Supreme Court and for the independence of judicial officers through guaranteed tenure and remuneration. Paragraphs (b) to (d) inclusive of section (1), when translated into legislation, will provide a means for removing a judicial officer, but only under strictly specified conditions. These provisions are crucial to the independence of the judiciary and will safeguard it from any, albeit remote, possibility that judicial officers could be removed capriciously by a future executive or legislature.

It is now almost 300 years since the English Act of Settlement of 1701 established the principle that judges, acting in their judicial capacities, are immune from both the executive and the parliament. That principle remains the cornerstone of judicial independence in systems of justice that are derived from that United Kingdom experience. Judicial independence has traditionally been achieved by providing that judges can be removed from office only by an address of

parliament on the grounds of proved misbehaviour or incapacity. In Australia such independence is conferred on Federal judges by the Commonwealth Constitution. The Governor-General, His Excellency the Honourable Bill Hayden, observed at a recent judges conference in Canberra:

> I do not believe that there is a commentator who would disagree with the proposition that an independent judiciary is an indispensable requirement of the rule of law.

I believe that the motion gives the Territory the lead in protecting the independence and integrity of its judiciary. Rather than being a fetter on the Territory, the entrenchment of the Supreme Court and of the removal process is the Territory giving the lead to other jurisdictions that have not built into their constitutions adequate provision for the integrity of their judicial systems.

Events in recent years in the Commonwealth and Queensland parliaments have dramatically focused public and judicial attention on the question of removal of judges from office. In an address to the Australian Bar Association in 1990, Mr Justice McGarvie of the Supreme Court of Victoria pointed out that those events demonstrated that traditional parliamentary procedures in such cases were unable in any satisfactory way to ascertain what had occurred or whether what had occurred could warrant removal of a judge from office.

In 1988 the Constitutional Commission recommended changes to the Commonwealth Constitution to provide that no Federal or State judge could be removed from office, except by the Governor-General or Governor, as the case may be, on an address by the relevant parliament citing grounds of proved misbehaviour or incapacity following investigation by a judicial tribunal.

While the recommendations of the Constitutional Commission have not been acted upon, this is a highly significant statement. It would now be hard to imagine that any Australian parliament would contemplate removal of a judge without first referring allegations of misconduct or incapacity to an impartial judicial body for investigation. The proposed changes to the self-government Act will mean that a judicial officer could be removed only following the investigation and reporting of an independent judicial commission.

Paragraphs (e) and (f) safeguard judicial salaries by providing that they are to be determined by the Remuneration Tribunal or, in the absence of a tribunal determination, as specified in Territory legislation. These provisions are identical to those for high-level Territory officers, as set out in section 73 of the self-government Act.

Paragraph (g) prevents a government reducing the remuneration of a judge during his or her continuance in office. Most jurisdictions have similar provisions. This is a necessary element if judicial tenure is to be guaranteed. It is a safeguard against the unlikely possibility that a government would seek to circumvent the security of tenure provisions by reducing a judge's salary to, in effect, force him or her from office. Paragraph (h) provides similar safeguards for a judge's retiring age.

Section (2) of the motion safeguards the terms and conditions of the existing judges of the Supreme Court after transfer. Section (3) proposes amendment of the Federal Court of Australia Act to ensure the continuation of the present arrangement whereby Federal Court judges may be appointed as additional judges of the ACT Supreme Court. This is a very useful arrangement to cope with periods of high workload in the court.

As I previously indicated, the proposed amendments to the self-government legislation which this motion requests the Commonwealth to make have been developed in close consultation with the Commonwealth. The Commonwealth Attorney-General has indicated his agreement to the proposed course of action and his willingness to introduce amending legislation into the Commonwealth Parliament. Madam Speaker, I commend the motion to the Assembly.

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

ADJOURNMENT

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

> That the Assembly do now adjourn.

Assembly adjourned at 3.31 pm