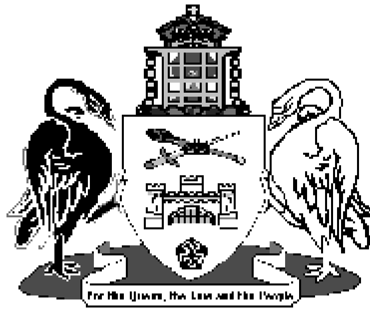

DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

13 May 1992

Wednesday, 13 May 1992

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Wednesday, 13 May 1992

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

PAPER

MR LAMONT: Madam Speaker, I ask for leave to present a petition which does not conform to standing orders as it does not contain a request.

Leave granted.

MR LAMONT: I present an out-of-order petition from 40 residents opposing the introduction of compulsory wearing of bicycle helmets.

EPIDEMIOLOGICAL STUDIES (CONFIDENTIALITY) BILL 1992

MR MOORE (10.31): Madam Speaker, I present the Epidemiological Studies (Confidentiality) Bill 1992.

Title read by Clerk.

MR MOORE: I move:

> That this Bill be agreed to in principle.

Madam Speaker, in the transition to self-government in the Territory a gap was left in much legislation. The Epidemiological Studies (Confidentiality) Bill 1992 is simply a Bill to fill one of those gaps. I think it is important to understand the importance of epidemiology and why it is that an epidemiological study requires some confidentiality.

The doyen of epidemiology is normally considered to be one Sir Richard Doll, who is Regis Professor of Epidemiology at Oxford. It was Sir Richard Doll who first managed to link cigarette smoking and cancer. He says:

> ... the results of epidemiological research are often of immediate concern to the individual in the way he conducts his daily life, and to society in the way its activities are controlled. The media in consequence give the results wide publicity, and hardly a day passes without some reference being made to the hazards associated with radioactivity, chemical waste, food additives, contraceptives, medicines, the so-called drugs of solace, or new sources of infection. Unfortunately, claims about the existence of hazards are often based on half-baked and preliminary findings without adequate allowance for the vagaries of chance -

of course, later today we will be considering a Bill that deals with fluoride, an area where perhaps more than anywhere else we have seen cases of what Professor Doll refers to as claims about the existence of hazards based on half-baked and preliminary findings -

> bias in reporting, and complexity caused by the way different social and environmental factors are interrelated. They may consequently cause much unnecessary work for professional epidemiologists and much unnecessary anxiety for the public, which could be avoided if there were more general understanding of the power and the limitations of epidemiological investigation.

What is epidemiology, apart from a word that is difficult to pronounce? An epidemiologist works initially on a suspicion or an idea that there is a problem. That suspicion or idea may come from laboratory research, disease patterns, clinical practice or theoretical speculation. From that idea an hypothesis is usually formed and then the epidemiologist tests that hypothesis. The epidemiologist can test the hypothesis in two normal ways. One is with a descriptive study and the other is with an analytical study.

Descriptive studies fall into the categories of cross-sectional surveys and cohort or case control studies. Intervention studies are the normal method of carrying out analytical or clinical studies. The most obvious of the analytical studies are those done on new drugs introduced by pharmaceutical companies, to assess whether they are safe or not. They involve a control group and a study group.

To get a background to epidemiology, it is very interesting to look at the first really great case, which was put together by a man called John Snow in the 1840s. He had a suspicion about cholera deaths in London. His research took the form of knocking on doors to find out how many people had died from cholera and in what areas. He then looked at the results and was able to determine that death rates from cholera were particularly high in areas where three water companies provided water. Those three water companies were the Lambeth company, the Vauxhall company and the Southwark company.

Between 1849 and 1854 the Lambeth company moved its water intake in the Thames away from a sewerage outlet. It was John Snow who noted a significant drop in the number of deaths from cholera in the area where that company was providing water. One can draw all sorts of conclusions about whether we should have privatisation of water supplies, or whether we should use additives such as chlorine in water. Nevertheless, I think the point of the epidemiological study was that John Snow was able to draw particular conclusions that had a significant - in fact, massive - impact on the health of society. That is exactly what epidemiology is about.

We normally think of "epidemiology" as coming from the word "epidemic"; so we think of it in terms of a study of epidemics and health. But it is, in fact, broader than that. Epidemiology also includes the study of population health. Recent epidemiological studies in population health include studies associated with AIDS, abortion, and the health of disadvantaged groups such as women, Aborigines and drug users.

In dealing with those disadvantaged groups in particular, there is often a great need for confidentiality. I think it is self-evident why there is a need for confidentiality, particularly in the study of drug use or AIDS. The Bill that I have presented refers specifically to a current study of drug use called the Canberra drug users study, which looks at drug users' networks, infection with HIV, risks, and strategies for minimising those risks. The study is being carried out at the National Centre for Epidemiology and Population Health in Canberra.

That study is referred to specifically in the Bill because the researcher seeks protection from this Assembly for confidentiality concerning the first interview, which took place on 13 January this year. The reason that protection is needed is twofold. The most significant thing from society's point of view is that we be able to make policy decisions based on sensible data, knowing what goes on in our society and how things work.

In the case of the use of drugs, the results of a study that is carried on can be subpoenaed and used as evidence in a court. If that is allowed to happen, if there is not protection against that, then of course the researchers will not be able to find out just what is going on in a world outside the law, as very few people will be prepared to volunteer to participate in such a study. There are questions about whether it would be ethical to carry on such a study without that kind of protection. I think most researchers would have difficulty carrying on a study in those circumstances. The particular study that I refer to is in fact in abeyance at the moment for that reason.

It is important for us, in terms not only of policy but also of the individual involved in the study, to protect confidentiality. It is quite appropriate that we provide that kind of protection. It was seen as appropriate by the Federal Government in 1981 when they introduced a Bill that is almost identical to the Bill that I have presented here. I will be happy to provide people with copies of the Federal Bill and to discuss where there are differences and why there are differences - which, I add, are minor.

It is very important, I believe, to draw your attention to clause 12 in the Bill that I have just tabled, which refers specifically to the Canberra drug users study, and for you to understand that the point of drawing attention to that is to ensure that there is protection for people involved in that particular study. Madam Speaker, I do not see the Bill that I present today as in any way creating an area of conflict. I think it will allow us to see issues in an appropriate way and will allow people in the ACT to study those issues in an appropriate way.

I drew attention to studies on drug use; but perhaps it is also worth drawing attention to the importance of confidentiality in relation to studies, for example, on AIDS. There have been a number of studies of AIDS in prison. Professor Robert Douglas, who heads up the National Centre for Epidemiology and Population Health, brought down a finding and made some recommendations about AIDS in prisons, about the use of condoms and the provision of bleach to clean needles. In fact, some work is still being done in Canberra to attempt to bring the kids that fit in with those recommendations into the remand centre in the ACT. That is a matter that has come up in this Assembly and I think will probably come up again until we actually achieve that recommendation made by Professor Douglas after an epidemiological study into the possible spread of AIDS in prisons.

Obviously, under circumstances where prisoners are sharing information with a researcher, their confidentiality needs to be protected. It is for that reason that this Bill has been introduced. It is simply to protect confidentiality to allow people to carry on reasonable research so that we can look at research results and make policy decisions. That is what epidemiology is really about. Madam Speaker, I commend this Bill to the house.

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

MOTOR TRAFFIC (AMENDMENT) BILL 1992

MR WESTENDE: Pursuant to standing order 128, I fix a later hour this day for the presentation of private members' business notice No. 2, Motor Traffic (Amendment) Bill 1992.

CONSUMER AFFAIRS (AMENDMENT) BILL 1992

MR HUMPHRIES (10.44): Madam Speaker, I present the Consumer Affairs (Amendment) Bill 1992.

Title read by Clerk.

MR HUMPHRIES: I move:

> That this Bill be agreed to in principle.

This Bill effectively provides for food use-by dates to have the force of law in this Territory. When Mr Connolly, the present Attorney-General, entered this place - - -

Mr Connolly: You are reading my introduction speech, Gary.

MR HUMPHRIES: Is it not to your liking, Mr Connolly?

Mr Connolly: It is a very good speech.

MR HUMPHRIES: When he entered this place on 1 May 1990, in his inaugural speech - or maiden speech, to use a preferable term - to this chamber, he lamented the fact that there was no effective food use-by date legislation in this Territory, and that the Territory had become the dumping ground for outdated food which it was unlawful to offer for sale in New South Wales but which could be offered for sale - sometimes at discount prices, sometimes not at discount prices, sometimes at full price - within the Australian Capital Territory.

Mr Kaine: Then, he should support your Bill, shouldn't he?

MR HUMPHRIES: Indeed. He urged that attention be given to this problem and that action be taken. Some 24 months, two years, have passed and we still have outdated food being offered for sale on the shelves in the ACT. We still, I suspect and many others suspect, have trucks delivering that outdated food, which it is unlawful to offer for sale in New South Wales, into this Territory. The Opposition has repeatedly stated that it is its policy to use private members'

business to offer constructive approaches to government and to attempt to address problems that seem to be lost in the system. That is precisely the purpose of this Consumer Affairs (Amendment) Bill.
I confess, Madam Speaker, to having borrowed heavily from my colleague Mr Connolly thus far in my speech; but, since he went on to talk about Consumer Affairs Week, which it was at the time of the introduction of his Bill last year, I will abandon his remarks and go to my own. This Bill deals with food law in this Territory, an area where we still regrettably lack comprehensive consumer protection. It is an area in which this Government should be highly embarrassed because it has been in government for almost a year and has failed to act, even though the Attorney-General has said that this is something of a pet subject for him.

Most food packaging in this country now carries use-by dates, but there are plenty of goods on sale in this Territory which do not display those dates. There is no requirement for shops to sell food bearing use-by dates or to display other forms of information which most people would regard as important, if not essential, consumer advice. I walked into one shop yesterday and was able to pick up a number of items, some of which had no use-by dates and others which had use-by dates which had expired.

Few of the items I purchased carried any indication of when they were manufactured or how old they were. There was little to reassure consumers about the age of the product or its durability. One item in particular was a most egregious example of this problem. I have here a bottle of Tung Chun barbecue sauce which bears on the bottom left-hand corner of the label the words "Use by June 1989". I bought this product in a shop in Civic yesterday. I suspect that if I opened this bottle I would probably accomplish in one fell swoop all the aims of the Abolish Self Government Coalition. I propose to keep it tightly sealed.

I stress that all the goods that I bought yesterday, including this bottle, were quite legally sold and there is no reason at all to suggest that any of them were unsafe or unpalatable, although I would not like to chance the barbecue sauce. The fact remains that the Territory is deficient in this area of consumer protection, an important area, given the fact that we all consume food - some of us more than others.

This Bill effectively seeks to tighten food legislation in the Territory to prevent dumping of products in the ACT which have passed their use-by dates. The issue of use-by dates was first raised by the Attorney in his very first speech in this Territory, as I mentioned. He said at that time - in fact, it was on May Day in 1990:

> There are glaring inadequacies in this Territory in consumer protection laws. One only has to go into one's local supermarket and see the out-of-date food openly on display ... to realise that urgent action is needed.

Indeed, Madam Speaker, urgent action is needed. Mr Connolly did make an effort to do something about the problem, and in opposition in March last year he tabled a private member's Bill which sought to tackle the problem of outdated food being dumped in the Territory. That legislation is substantially the same as the legislation that I have presented today. In tabling that Bill, Mr Connolly said

that the Territory was becoming a dumping ground for outdated food which it was unlawful to offer for sale in New South Wales but which could be offered for sale in the Territory. He said on 13 March last year:

> We have been too long a dumping ground, too long an island without adequate protection ...

He also said:

> We in government would be quick to work with the other States and Territories in establishing national standards for food legislation and use-by legislation. But it is not good enough for us to wait.

I can only say, "Hear hear!". I might point out, however, Madam Speaker, that working with other States and Territories to establish national standards is probably not necessary. We actually have those standards already worked out by the other States. Indeed, in 1980 the then Prime Minister, Malcolm Fraser, announced the establishment of national food standards and the development of those standards by cooperation between the States. Of course, every other State and Territory has already put those standards in place. The ACT remains the only place without them.

In government, we rejected the Bill that Mr Connolly put forward, on the basis that the advice given to me, as Minister at the time, was that comprehensive legislation in accordance with the national standards was well and truly on its way. I asked what "on its way" meant, and I was told that it would certainly be possible to present the legislation in the second half of the year, in the 1991 budget session of the Assembly. Between then and that budget session, the Alliance lost office. Labor came to power and, given Mr Connolly's fine words, we fully expected the new Government to carry out the Alliance plans and have the new comprehensive food legislation up and running by Christmas.

Of course, we waited in vain. Labor has now been in government for almost a year and still we have not seen the legislation. That is totally inexcusable. I do not know what has happened to this legislation. I was told that it would be ready by about August. In fact, I said to the draftspeople at the time, "Is it possible to have this available by August?". They said, "We think so". It may be that legitimate problems have been encountered.

Ms Follett: They were kidding you.

MR HUMPHRIES: It may be that we were being kidded, as the Chief Minister has suggested. I sincerely doubt that that is the case, given the fine upstanding integrity of our draftspeople. It may be that there has been some problem with the Government's own handling of the matter which has caused us to be without this legislation. I leave it to the Attorney to explain which of those things is responsible for the problem. Clearly, there has been some issue which has caused this legislation not to be available by now. I am certain that the Attorney was told when he took office that this legislation would be available quite soon, because I was told that when I left office.

I hope that the Government will produce its own legislation before we debate this Bill. I would be more than happy to throw this Bill out in favour of comprehensive legislation on the part of the Government. However, we have only one two-week sitting after this present two-week sitting. If it is not brought

in within this two-week sitting - that is, by next week, or by tomorrow - we will not see any legislation in place until August of this year at the earliest, and that would be extremely unfortunate. As Mr Connolly himself said two years ago, this is urgent. If, however, the Government does not manage to introduce its legislation soon, we at least have some action to provide greater consumer protection.

The Bill allows the Minister to prescribe what are known as product information standards by placing notices in the *Gazette*. These can prescribe a number of items in relation to the product and can require information relating to the durable life of goods to be included in the packaging. It would be an offence for a person to supply goods that are intended to be used by a consumer if there is a prescribed consumer product safety standard or a product information standard in respect of the goods and the goods do not comply with that standard.

It would also be an offence to sell goods if they do not comply with the product information standard, and if the Minister sees fit to prescribe those standards in relation to the durable life of goods it would be an offence to sell goods when they have exceeded their durable life, which is shown as the use-by date.

As members opposite will know, this legislation is substantially the same as that Mr Connolly brought in last year, as I have already said. There may be some deficiencies in this legislation, and I foreshadow that some amendments might be necessary if it does in fact go forward for debate and passage. It is my intention to let the Bill lie on the table for as long as we can reasonably afford. I invite the Government to give some indication of when the substantial food legislation is likely to be introduced in the Assembly. If the legislation is unlikely to see the light of day for some time, then I certainly intend to proceed with the passage of my Bill in the near future.

Madam Speaker, I think I have said enough about Mr Connolly and the Government's former position, in opposition, on legislation of this kind. I can only say that it is matters such as this which led to Mr Connolly getting such an unfortunate rating from the magazine *Consuming Interest* late last month. If we were looking purely at this area of legislation, we would be giving him an F; but I remain hopeful that the work that was done by the former Government in this area, which I assume is being carried on by this Government in the meantime, will quickly come to fruition. The Chief Minister shakes her head; but I hope that it will come to fruition quickly, and that we can provide some quick relief to citizens of the Territory.

Mr Berry: What was done by the former government?

MR HUMPHRIES: Those opposite are saying, "You were in office for 18 months. Why didn't you do something?". You cannot keep blaming the Alliance for everything that you have failed to do. You said that legislation was urgent. You said that two years ago. You have been in office for almost a year, and I have to say that you really are in a position to be able to bring legislation forward if it is available, and you have not done so. You really should be thinking about what has gone wrong in the system to cause that to happen. Madam Speaker, I commend the Bill to the Assembly.

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

HIGH SCHOOLS DEVELOPMENT PROGRAM

Debate resumed from 8 April 1992, on motion by **Ms Szuty**:

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

MS SZUTY (10.57): Madam Speaker, I will not take up the Assembly's time going over all the points raised in my initial speech, but I would like to reiterate a few salient points. It has been some years since the report "Cohesion, Co-ordination and Communication" extensively recommended improvements in high schools. Again in 1991, the Belconnen Region High Schools Task Force drew the attention of the Government and the community to the need to better resource high schools.

At a time of high youth unemployment, it is this age group that needs support to keep our young people in the education system for their benefit. While the ACT has a high retention rate, it is these middle years of schooling that now urgently need to be addressed. I quote a teacher of 20 years, Chris Warren, who was recently interviewed by Karen Hobson of the *Canberra Times* on the issue of teaching:

> I do not think there is a crisis within individual classrooms but I do believe there is a crisis in high schools, and the only way to go is to spend money to reduce teachers' face-to-face load in recognition of the demands that are constantly being faced with curriculum development.

Ms Warren agreed that the high school sector has serious problems, and she is forthright about the answer - money.

MADAM SPEAKER: Ms Szuty, I am sorry to interrupt, but I just want to make it absolutely clear to members what we are doing here. In normal circumstances we would have thought that you had concluded your speech at the last sitting. What we are doing is giving you the extra four minutes that you did not take last time, which gives you a few more minutes now, and then you will be able to speak again at the conclusion of the debate. I want to be absolutely sure that we all know what we are doing.

MS SZUTY: Ms Warren's call for increased funding joins a decade of submissions, papers and requests for greater input to a sector that was left to find its own identity when the ACT adopted a two-tier secondary system of junior high schools and senior colleges. On top of this, high schools have to cope with every parent's nightmare - adolescence and the enormous social, health and sex issues this encompasses.

Teachers are confronted daily by teenagers questioning their authority and values and by the community demanding social responsibility. Ms Warren said, "Teachers are now often seen as questioning family values because we teach children to question and to support their opinions clearly and logically".

In my earlier speech to the Assembly I referred to the need to improve student management in classrooms through easing the staffing formula. It has been recognised for many years, as the colleges were brought into existence and then

greater emphasis was placed on primary education, that high schools have ended up as the poor cousins of the education system. It is time the sector received more support to meet the needs of young people.

Commitment to the high schools development program is an important issue. The problems of high schools have been well documented and must now be addressed. What is needed is a commitment by government to tackle the issues according to a firm timetable, with adequate resources to achieve actual results.

MR CORNWELL (11.01): The Liberal Party has no objection to this motion, Madam Speaker. In fact, I would like to support some of Ms Szuty's comments. I believe that she is spot-on in relation to the background of the situation in the high schools. It is quite correct that they have ended up, as she expressed herself, the poor cousins of the education system because the colleges obtained the resources that were, at one stage, to be directed, I understand, to the primary schools to reduce class sizes when the colleges were initially set up.

It is interesting to note, however, that we speak therefore in terms of the colleges getting the benefits rather than the primary schools; but nobody is commenting about the high schools, which are in the middle. I notice that the Chief Minister, in her statement on Labor's program, said:

> We will develop a long-term plan for the funding and development of high schools and provide them with extra resources to tackle the increasing need for improved pastoral care, counselling and careers advice.

Obviously, I welcome that statement and hope that that promise will be kept, because I am sad to say that some previous commitments of this Government in relation to education, in my opinion, have not been kept.

Ms Szuty, the last time she addressed us on this matter, made comments on the fact that there was a move to the non-government sector in the years 7 to 10. That is perfectly true, but I suggest that it is not necessarily only because of the deficiencies, as she perceives them, of the government high schools. I think there are other reasons involved. Many people would prefer to send their children to non-government schools for their education but because of financial restrictions find it impossible to do so at both primary and high school levels. Therefore, they opt to send their children to government primary schools and then move them on to non-government high schools.

Although the move back to government colleges is not as great as the movement from government primary schools to non-government high schools, it certainly does occur. But again I would suggest that it is for other reasons. Sometimes the government college resources are better, in the view of parents. There are certainly options for specialisation and in some cases people believe that there could be an improved tertiary entrance score through the government college system. I make no observation on that; I simply pass the comment that that has been put to me by some parents.

There is no question that there have been considerable investigations into high schools in this Territory for many years. The most recent was the report - in fact, I think Ms Szuty was a member of the panel - "Drawing Together", the report by the Belconnen Region High Schools Task Force. The Schools Restructuring Task Force, whilst it was more of an umbrella inquiry, did touch on high schools.

Finally, there is the high schools development discussion paper. This was put out last year - - -

Mr Wood: July.

MR CORNWELL: Thank you, Mr Wood. The high schools development discussion paper was issued by you in July 1991, with an undertaking, I understood, that the responses were to be synthesised in October of 1991 and that a high school education plan would then be developed in conjunction with the reference group in time for the commencement of the 1992 school year. That was a statement that you made, Minister. We have not seen the plan yet, but you may care to comment when you respond to Ms Szuty's remarks. I certainly would be very interested to see that plan. I imagine that that is part and parcel of the undertaking given by this Government to develop long-term plans for the funding and development of high schools, as the Chief Minister indicated in her earlier address. I must say that some of the 28 recommendations in "Drawing Together" - the Belconnen Region High Schools Task Force report - are quite contentious. I hope, therefore, that any development program is most carefully put together.

I also hope that any development program addresses the problem of the decrease in numbers at high schools. I notice from figures recently provided by Mr Wood that only seven of our 17 high schools have shown a decrease in the number of surplus spaces. Clearly, this is a matter that should be incorporated in any development program.

Ms Szuty mentioned refurbishment. That may be necessary in some of the high schools, but I certainly hope that it is not necessary in all of them. Those in the Tuggeranong Valley, of course, are relatively new, and one would hope that places such as Caroline Chisholm did not need refurbishment at this point.

Another matter referred to is truancy. In raising it, Ms Szuty touched, probably peripherally, upon one of the major problems with high schools. She referred to it again a few minutes ago. That is the question of adolescence and the problems and the turmoil that that particular period creates for so many young people. I do not, frankly, know, Ms Szuty, how this can be addressed in a development plan for high schools; but I think you would agree with me that it is absolutely essential that some attempt be made to do just that. I am not at all convinced that providing more money will overcome the problems of adolescence. Perhaps the Government could take some advice from experts in this area and, hopefully, we could see some improvement. I do not hold out a great deal of faith about this; but certainly the proposal that you put forward for a high school development program meets with the Liberal Party's support, and we commend the motion.

MR MOORE (11.09): I am delighted to stand and speak just prior to the Minister. It seems to me that the high school sector in the ACT is really the cinderella of the ACT school system. At the moment, we are waiting for the fairy godmother to come along. It is obvious that the colleges have been a huge success, but the price appears to have been borne by the high schools. When I speak on this, Madam Speaker, I speak with 17 years' teaching experience, some 13 or 14 years of it in high schools in several States and in Canada.

Dealing with adolescent young adults is, of course, one of the most difficult challenges for any teacher. It seems to me that one thing that is going to make or break the high schools is a recognition of just how difficult that is and what the challenges are. The discussion paper that was put out by Mr Wood and various attempts by principals and others throughout the ACT have wrestled with just what we can do in order to give our high schools the same sort of concept of success as goes with our colleges in particular and also our primary schools.

It seems to me that high schools have suffered a great deal under the cutbacks of recent years. We all know that education is expensive; but the price of an uninformed, self-conscious and angry graduate is much greater in the long run. So, what do we need to do in terms of the high schools? I think we have done a great deal of the reviewing. It is now time to stop reviewing ad nauseam and be prepared to take action to implement the program. The high school principals are clearly ready for reform, and teachers in the system are also ready for reform. Most importantly, the people for whom the system is designed, the students, although they may not be consciously aware of it, seem to be ready for some kind of reform.

Mr Cornwell, in his speech, said that he wondered whether anything could be achieved by throwing more money at the high schools. Of course, often people say, "The answer to everything is simply to throw more money into it, but the truth of the matter is that we do not have more money". That is not the truth of the matter. The truth of the matter is that we have determined that our priorities are such that we will spend less on education and more on other areas. In terms of a comparison between us and other States, we can look at the Grants Commission, which says, "You already spend more money than anybody else on education". Those figures need to be looked at very carefully to see what is achieved in the ACT in education, what people in the ACT want out of education and how much we want to spend on education. In the ACT in particular, education is considered a very high priority by the community, as is revealed in poll after poll. I think the Liberals will agree that their polling shows that education is considered a very high priority, as seems to come out time and again.

We need to look at a curriculum that addresses the need for our future generations to be creative problem solvers, lateral thinkers who are environmentally aware and socially responsible. We know, of course, that very depressing statistics being gathered at the present time show that a very high proportion of young people between the ages of 15 and 21 are committing suicide. It is a very sad thing, and it is of course at the extreme of the problems of young people.

When we hear the Liberals speak of education, as we did yesterday with Mr Cornwell, we hear them constantly talk about the need for skills testing. Their focus on skills testing is a focus on the three Rs. One wonders about the Liberal attitude on these issues, especially when one reads in the ACIL document the comment about schools. It might reflect the sort of attitude the Liberals have. I will read just a small amount:

> Schools. Last year's controversy over funding of non-government schools was a disgrace, showing Labor's 'politics of envy' at its worst.

That reflects something of a sensible attitude. The author continues:

> I maintain that the Liberal party did not adequately capitalise on it. But it needs to be taken much further. Schooling is a very important issue where a real choice can be given to parents if only the funding is directed at the student and not the institution. Recent reforms in New Zealand provide a great deal of experience from which the Liberal party here can learn. A major aspect, of course, relates to the militancy of teacher unions.

Those terrible ones. The document continues:

> Again, a Liberal sponsored discussion paper on the subject would be timely and would enable you to lead the debate.

The important point that I am drawing here relates to the words "I maintain that the Liberal party did not adequately capitalise on it". One cannot help wondering how important it is for the Liberals to make capital out of an issue rather than dealing with the issue in a genuine and important way. We need to ensure that the three Rs are considered at high school level and have an appropriate level. The three Rs are an important part, but skills testing will not necessarily improve achievement in that area. In addition to that, particularly at high school, we need to recognise the changes that adolescents are going through and educate them in the real basics - the basics of problem solving, communicating, self-expression, creative use of leisure time - and other skills vital for their healthy survival and active contribution in their consolidation years, that is, in high school.

Of course, the three Rs are included. We talk about communication; we talk about reading and writing. We talk about problem solving; we talk about mathematics. Of course, I include those areas, and they are important. Without those basic areas there would be even greater problems for students. But the important and critical factor is that the notion that students should be tested across the board for statistical evidence to allow people to understand that they are the dummies is not necessarily the case.

What is important about testing is testing individuals to see whether they need to improve, so that the professional teacher can then take them through a program to ensure that they have the necessary skills. That is what has been happening. We do have a testing system in the ACT. I mentioned it yesterday, I believe. There has been constant testing by the Australian Council for Educational Research. I suggest that, before the Liberals go any further with this testing and when they prepare their paper as ACIL has told them to do, they should make sure that they get the evidence from the Australian Council for Educational Research. They should do very well by doing so.

Mr De Domenico: Give us a paper and we will consider yours too, Michael.

MR MOORE: Mr De Domenico suggests that I could perhaps prepare a paper for them, but I do not need to take advice from other people on how I run my political methods or political campaigns or whatever you wish to call them. If we are looking at three Rs with reference to Mr De Domenico, I suppose we could look at "rude", "ridiculous" and "rhetorical".

I think it is appropriate to call on the Labor Government to make a strong commitment to the high school development program, including the resources to carry it out. I urge Mr Wood to indicate what his plans are. I take great pleasure in supporting the motion of Ms Szuty.

MR LAMONT (11.19): Madam Speaker, I draw your attention to standing order 213. It is obvious that Mr Moore was quoting from a document which I observe has a heading "ACIL" and a second document from the H.R. Nicholls Society entitled "A tiger on your tail?". I propose that those documents be tabled.

MADAM SPEAKER: Are you moving that motion, Mr Lamont?

MR LAMONT: Yes, I am. I move:

> That the documents quoted from by Mr Moore be tabled.

Question resolved in the affirmative.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (11.20): Madam Speaker, I welcome Ms Szuty and Mr Moore to our ranks. One of Ms Szuty's first measures has been to propose:

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

She has, no doubt, as Mr Cornwell has, read our Labor Party policy, which I will now quote, though it hardly needs it because it is so similar. Rosemary Follett, in the course of the election campaign, announced - - -

Mr De Domenico: Is this the ACIL document, Bill?

MR WOOD: I will table this willingly. Ms Follett said that the ALP will "develop a long-term plan for the appropriate funding and development of high schools in the ACT in close cooperation with teachers, parents and students". So, you can see that the Government has no dispute with this motion. We support our own proposal. That is very clear.

Let me report to the Assembly what is happening. The development program is being prepared. In fact, it is close to completion. The program is being merged with studies that I got under way in July last year, as Mr Cornwell indicated. Soon after my appointment as Minister I authorised the release of the document that he mentioned, the high schools development discussion paper. About nine months later, after a great deal of discussion - perhaps it may have been a bit slower than we first thought - the outcome is nearing its completion. Given the tone of the debate, I will shortly table in this Assembly the high school development plan. I will be very interested in the debate that that brings forth.

The high school development plan is substantially a completed document. It is in its - I suppose I will put in inverted commas - "final form". Although it will be tabled here, it will be released to the key players who have been discussing it, such as the principals association and the P and C council. It may be subject to some modification, but I think there has been sufficient debate thus far for it to be effectively in final form. It has been well discussed. That discussion has taken into account the various documents that have been mentioned today - the

Belconnen task force report on school restructuring and the three Cs document, "Cohesion, Co-ordination and Communication", that was issued in 1989. It may well have gone back to encompass some of the incomplete recommendations of the document "The Challenge of Change", which was produced in the mid-1980s. You may remember it, Mr Cornwell.

I think it was Mr Moore who said, "There has been a great deal of discussion about high schools and it is time for action". I have no dispute with that. We are about to continue the action. I think it is fair to point out that a great deal of the three Cs document has been implemented. I think people found it a useful document, and to a considerable extent the department and schools have taken its recommendations on board. Certainly it is my intention now, as Minister, to implement the high school education plan that you will shortly see.

I might point out that the Labor policy document went rather further than Ms Szuty's motion by pointing out that we will develop a plan not just for the development of high schools but also for the appropriate funding of high schools. Obviously, the plan will need to be worked within the budget context. That will understandably create some problems because the budget, as we all know, does present problems. In our campaign policy we committed some funds to specific purposes indicated by Mr Cornwell, and over the life of this parliament that commitment will be implemented. They were not enormous amounts of money that we committed for that particular reason, but we are taking some measures.

Mr Moore commented that high schools were something of a cinderella, and Mr Cornwell said that they were the poor relation of our school system, particularly compared with secondary colleges. It was certainly the case that when the colleges were first established they were very handsomely resourced, and stood in some contrast to our high schools, which nevertheless were well resourced - they were not poorly resourced. Over the years, as budget restrictions have been imposed, staffing in colleges has been reduced more than in any other sector. That is a measure of the acknowledgment of the difference between the two systems.

It has not been the case that we have been able to increase resources in high schools, because they compare quite well with high schools in other systems. As well as I can judge all the data that is out, our high schools are in the middle range, about average, for staffing. They are not the best; they are not the worst. Our high schools are generally in reasonably good buildings, depending on their age. Some buildings are showing signs of wear, with up to 1,000 students walking through them day in, day out. But, in general, our high schools are in quite sound condition. The staffing and the resources in our high schools are quite good. We would hope to do more. I note what is being said.

I want to go on to say that no matter what resources we pour into our high schools, or any other level of education in the ACT, you do not get school improvement without the effort of those in the schools - the teachers and the students. The quality of education in the end, regardless of resources, depends on the work of the people in the schools. I want everybody clearly to understand that. We have the conditions in our schools now for quality education. We have that quality. We have the conditions in our schools now to improve that quality education. If we can do something by way of adding to resources to encourage what teachers and students do, we will be very happy to do it.

As I conclude, I want to give the message very emphatically that, while we would like more, we really lack nothing. We have the best teachers we can find. We have good resources and good facilities. We have the ingredients for an even better high school education system.

MR HUMPHRIES (11.28): I would like to contribute to the debate, because during my tenure as Minister for Education I was certainly acutely aware of the problems faced by high schools - no less than by having visited some of them and seen evidence of problems in some of them. Indeed, I saw evidence of success in others, and I will come back to that question in a moment.

It has been well stated by Ms Szuty, Mr Moore, Mr Wood and Mr Cornwell that there is a problem which stems, in large part, from both the nature of high schools as institutions in our Territory and the nature of the young people who attend them. It is that problem which, of course, has to be faced and which is the object of this exercise today. The problem is partly a function of unavoidable consequences and facts. The age of the young people is a factor which is obviously inescapable and cannot be fully compensated for by adjustments in spending. The problem is also partly a symptom of the fact that we have taken directions in education in the ACT which put pressure on the high school years of education.

It is generally accepted that the period of young adolescence, 12 to 15 years, is the most challenging time for people who are learning and those who are teaching those people. At that particular period, the physical, social and intellectual development of young people is rapid and is coupled with a growing sense of independence, and those changes cause problems. We have said in the past - I think I said it as Minister - that high schools were the weak link in our chain, and that is undoubtedly true. Obviously, the chain as a whole is pretty strong, and we cannot - - -

Mr Wood: I would not say that it is the weak link.

MR HUMPHRIES: I have said that, and I do not resile from it now. If there is any area that is likely to fall down, likely not to support the weight that is put on it, it is high schools, and in that sense they are a weak link. As I have said, this is partly because of the problems inherent in the age group we are dealing with, but also because of the way in which we have structured the rest of the system.

We have talked a bit already in this debate about secondary colleges. Mr Cornwell said that high schools were the poor cousins because colleges had obtained the resources. Historically, that has been the case. Part of the problem, though, also relates to the fact that by taking year 11 and year 12 students out of the high school system you have deprived, in a way, the secondary school system of some leadership, the sort of example which is expected of the year 11 and year 12 students.

I went to school with year 11 and year 12 students, and those students were the prefects of the school. They were expected to set an example in the school. They provided a certain ambition for lower students. That kind of leadership, of course, is missing in our high schools, because year 10 students are merely on the last stepping stone before going into a secondary college, and that causes some problems.

There is no question of our recommending going back to an integrated years 7 to 12 system, although it may be that our system should be flexible enough to allow that to happen. Presently such a system operates only in the private, non-government, sector. If you want to experience that kind of system you have to go to a private school. I do not think that going back to that system is an answer, because clearly our secondary colleges are a major success. They are a shining example of what is possible with educational advances. We should not be threatening that experiment.

But, because of what has happened in our secondary colleges, we need to reconceptualise what happens in our high schools. I might say that it has been happening to some extent. There have been efforts made by individual high schools to achieve that. I can certainly think of a number I have listed which are deserving of accolades. I do not mind mentioning one by name - Canberra High School. I was particularly impressed about it. I felt that that school displayed a higher level of community spirit, of common purpose, of goodwill between the students and the staff. That was quite apparent and it came through when one talked to the students and the staff at the school. I have to say that other schools, which I will not name, did not display by any means the same level of cooperation and educational environment as I saw at Canberra High School. It is those sorts of schools which we have to be looking at particularly in this exercise.

There is an argument about whether we deal with the problem on a corporate basis; that is, whether we allow schools to get together and make a plan for dealing with their common problems. The secondary principals council is one way of dealing with that. It has been somewhat successful in that regard. There is also a question of whether or not we should be encouraging individual schools to choose individual solutions. One of the problems we face in that, though, is that there is real competition between schools at the present time - not so much for resources, but for the thing that generates resources in the first place, namely, students.

In some areas such as Belconnen there is a serious lack of students. The schools are, in a sense, forced to compete for those students, and I suspect that a lot of resources are put into actually maintaining that competition, maintaining that capacity to attract students. That may not be helpful. That is why the Alliance Government commissioned the Birtles report - the report entitled "Drawing Together" - on high schools in the Belconnen region in a desire to try to deal with that resources problem and also bring together some of the educational issues which have to be faced by schools in that region as a whole.

It may be that arising out of that report there is a strong case for regionalisation of high schools on a special basis which would allow them to deal with their problems on common ground. That kind of competition is obviously positive up to a point; but we reach the stage where some schools' survival depends on a level of enrolment, and when competition at that level takes place it can be destructive. Certainly that was argued to me in a paper that one person in the ACT education system, who has considerable experience with high schools, put to me when I was Minister.

I want to comment on a couple of things that have been said during the debate in addition to things I have already said. There were comments about funding in high schools and throwing some money at the problem. I think it was Ms Szuty who said that greatly increased funding was at one stage argued for, and in some quarters is still being argued for, as a way of dealing with the problem.

Mr Moore elaborated on that theme to some extent by saying that we may be overspending by State standards but there is no reason why we should not continue to do so. I think that by implication he was saying that since we are spending our money so well already we should think about getting some more from somewhere to put into solving the problems of our high schools. I have to describe that view in no uncertain terms as unrealistic. It may be that we are a mere $32m overfunded by State standards in our education system. But irrespective of whether that money is being overspent well, if I may put it that way, it is simply unrealistic to talk about pumping more money into education in this Territory.

The Minister might not have said this, but I say to you that it is inconceivable that any government in this Territory for at least the next five years could talk about putting more money into education on a relative basis to States. It is simply unrealistic. The fact of life is that we have to go back to the question of finding better resources within the education system - that is, by reordering our priorities. You know my view on this subject. I think that we waste extraordinarily large sums of money already in education through the maintenance of empty school places. That view has been canvassed lots of times in this place, and I will not enter that debate again. But until we face up to problems of that kind and there is no doubt - - -

Mr Berry: You lost that one, Gary.

MR HUMPHRIES: I beg to differ with Mr Berry's comment. We will see what happens in the next three years as pressure is put on our school system - not just high schools, but secondary colleges and primary schools - as some schools sustain continuing serious and damaging reductions in their staffing levels and their resources levels because of the lack of students. Those schools are going to have to face the crunch sooner or later. They might not face it under this Government if it keeps to its promise not to close any schools in the next three years, but they will face it sooner or later through the sheer drain on resources that they experience. It is a problem that is not going to go away. *(Extension of time granted).*

I would argue that the other side of the coin of having won the right not to close new schools, at least for the next three years, is that we now have to find other ways of dealing with the lack of resources in the system in some areas. We have a problem here. High schools are a problem. High schools need extra resources, I suspect, if they are going to face that problem, and there just is not anywhere else in the education system to find those resources unless you make some effort to deal with structural problems elsewhere. We had one solution come forward - - -

Mr Moore: You should not take them from health.

MR HUMPHRIES: I would not urge that solution. We have had one solution proposed by the recently outgoing head of the Minister's department, Dr Willmot, who said that one way of finding extra resources would be to reduce the number of years of teaching in the ACT to the model that applies in Queensland - 12 years rather than 13 years of teaching. That is a solution. It seems to me that that solution must cut a corner somewhere and result in some reduction in the quality of education. That seems to me, as a person I think I would still describe as a lay person in education, to be cutting a corner somewhere.

If we do not explore solutions of that kind there are not going to be substantial sums of money, realistic sums of money, available for dealing with our high school problem. I have no doubt that when the Minister introduces his high school plan there will be some money there somewhere; but it is going to be a small sum of money, I predict, if there is anything at all, and it is going to be, I also suspect, less than we need to deal with the problem. So, the question remains the question we have stated on this side of the house again and again. How do we fund education properly if we do not face up to the basic structural inefficiencies of our system and deal with them first?

MS SZUTY (11.40), in reply: I would like to thank both the Liberals and the Labor Party for the support of this very important motion. In response to both Mr Cornwell and Minister Wood, I point out that advice from the high school sector itself indicates that what is needed to improve high schools is more resourcing - they have said that loud and clear for some time - to improve the staffing formula in high schools, to enable individual student issues to be better addressed and to go towards the refurbishment of high schools to create the environment in which young people are happy to attend and learn. I welcome the words of support from Minister Bill Wood to implement a high school development program. I further welcome the news that the program is close to completion and that the Minister will shortly introduce into the Assembly the final version of the high schools development plan.

Question resolved in the affirmative.

MOTOR TRAFFIC (AMENDMENT) BILL 1992

MR WESTENDE (11.42): I present the Motor Traffic (Amendment) Bill 1992.

Title read by Clerk.

MR WESTENDE: I move:

> That this Bill be agreed to in principle.

Madam Speaker, it is time that there was some more order on our freeways in the ACT. We have excellent freeways and an excellent motorway system, but these are not functioning as well as they might. One of the main problems that exist at present is that many motorists are not conforming to the standard practice of driving in the left lane unless overtaking. This is an unsafe practice and it dramatically affects the flow of traffic.

The unsafe practice that is occurring on our freeways results from a great many drivers using the middle lane, or indeed the right lane, causing other vehicles to overtake them on the left-hand side - in other words, the blind side of a right-hand drive vehicle. This procedure is invariably done at the maximum speed on the freeway and is clearly dangerous. If your experience is the same as mine, Madam Speaker, whenever I overtake someone on the left out of necessity I always have some doubt as to whether the driver in front can see me and whether that driver is going to veer in front of me.

The second aspect to this matter is that the practice of not driving in the left lane unless overtaking affects the flow of traffic. It means that a driver can sit in the middle or right-hand lane at speeds well under the minimum speed and, if he or she is driving beside a vehicle in the left lane that is travelling at the same speed, this can cause a traffic build-up which invariably causes frustrations and unsafe driving behaviour in others. A build-up of traffic caused by this kind of driving behaviour is also potentially dangerous for the free passage of emergency vehicles. Madam Speaker, this is not an earth shattering piece of legislation in itself, but it is an important one and it will bring the Act into line with New South Wales law on this matter. Of course it will apply only to roadways where the speed limit is 80 kilometres or more per hour.

The second part of the Bill deals with the ability of the Commissioner of Police to grant extensions of time to people who have incurred traffic fines. These extensions cannot at present exceed 28 days. The effect of the amendment will be to allow the Commissioner of Police to grant more than one extension or extensions which exceed 28 days. We feel that this is necessary because of a number of genuine cases which have been brought to the attention of Opposition members. These involve cases of hardship, where unemployed people have found it necessary to ask for an extension but then have found, either for financial or other reasons, that the 28-day extension has been insufficient to allow them to find the funds to cover the fine.

We must remember that penalties for traffic infringements can be extremely high. At present, in cases where the 28-day extension cannot be met, the matter goes back to the Magistrates Court, thus adding to court delays and court costs. It would seem sensible to prevent genuine cases of hardship clogging up the court system. I believe that we should allow the appropriate authorities more flexibility in assessing the ability of people to meet fine requirements.

It should be noted that the commissioner already has some flexibility in that section 180A(5) allows the commissioner to grant an extension of time not exceeding 28 days. In other words, should he or she wish, the extension would be for 10 days or two weeks. Providing the authorities with greater flexibility on this matter should not be a contentious issue and the reform, though minor in nature, could help relieve congestion in our court system. I commend the Bill to the Assembly.

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

ELECTRICITY AND WATER (AMENDMENT) BILL 1992

Debate resumed from 8 April 1992, on motion by **Mrs Carnell**:

> That this Bill be agreed to in principle.

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

FREEDOM OF INFORMATION (AMENDMENT) BILL 1992

Debate resumed from 8 April 1992, on motion by **Mr Humphries**:

That this Bill be agreed to in principle.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.48): Madam Speaker, the Government will not be supporting these amendments to the freedom of information legislation that have been proposed by Mr Humphries. I was interested to see that the early indication of these amendments before they reached the light of day in the Assembly was in a 2CN news report on 14 March. The newsreader indicated that the Opposition planned these legislative amendments, and Mr Humphries said that there were unnecessary delays for people seeking information under FOI. The newsreader said, "Mr Humphries says he was prompted to change the laws after his experiences last year".

Mr Humphries seems to have had on this issue one of the greatest changes on the road to Damascus since the original, because Mr Humphries, of course, was the Minister who was the person being litigated against by the Weetangera Action Group. Many of us in this Assembly would have recalled the Weetangera Action Group, a very dedicated group of residents who were seeking to get access to some of the material that was floating around during the school closure debate. A very rigorous line was held against the Weetangera Action Group. There were many points taken on fees and time and all the rest of it, and a very vigorous defence of not producing documents that had been to the joint party room and to the Alliance Cabinet. Unfortunately, because the Government changed, we were not in a position to reverse that decision. They were previous Cabinet documents; so we could not have just said, "Go for your life; have it".

One of the first decisions of the ACT AAT on the ACT FOI Act is that in the case of the Weetangera Action Group against the Department of Education and the Arts, and it is a sorry tale of the Alliance's determination not to lay the cards on the table in relation to the school debate. So, as for the assertion by the newsreader indicating that Mr Humphries had learned from his experiences last year, I wonder whether they were the particular experiences.

When we read the introduction speech we note that Mr Humphries does make the point that oppositions tend to be more robust on FOI than governments, and I guess that that is generally a truism. But it is odd that the Liberal Party is taking this particular point. In essence, what Mr Humphries is saying is that the current law is defective when a person makes an application and at the same time says, "I want the fee limited". Members would be aware that in the ACT, as in the Commonwealth, there is a user pays regime, essentially - a matter which ACIL seemed to be terribly enthusiastic about for all sorts of reasons and which is usually dear to the hearts of the Liberal Party. Under that user pays regime the person who wants information is, prima facie, expected to meet a charge.

At the moment a person may make an application and make an application for the fees to be remitted, but the application is not dealt with until the remittal matter is determined; that is, if the decision maker says, "Yes, you can have a remission", the process is dealt with and the documents will be obtained. If the remission is rejected, the matter is not properly dealt with.

The problem with the proposal by Mr Humphries is that the agency will have to process the documents, and processing a request can be a very expensive business. It was because of that that the Labor Government, originally, and governments of various persuasions in different States, have uniformly followed this and have introduced a user pays regime. A simple FOI request can result in hundreds, if not thousands, of hours of clerical time in which officials are running around chasing documents and processing them. If Mr Humphries's amendments are agreed to, the agency will have to be going through that process, provided the person says, "I would like a remittal".

Let us say for argument's sake that the person's application for remittal is rejected. He may appeal that. At the end of the day the remittal is rejected and the person is told, "You have to pay your fee". The person could then throw their hands up in the air and say, "I do not want to pay the fee. I do not want the documents any more". That is quite likely. A lot of people may put in a bid for documents and a bid for remittal, but not wish to pursue the request if they are required to pay the fee and undertake the user pays regime. What Mr Humphries's amendments would do is to force the work to be done whether or not, at the end of the day, the person is prepared to pay the fee.

I cannot accept that that is necessarily an advance. It is a rather ironic proposal coming from a Liberal Party which usually extols the virtues of smaller government and user pays, and is always vigorously, particularly if there is a television camera around, extolling the virtues of avoiding waste in government. The danger with this is that we are potentially having a lot of clerical work being done for an applicant who may later decide that the information is not really worth the cost of the application fee and processing fees. We can get into quite large sums of money if there is a mass of documentation to be searched and examined. So, the Government is not prepared to accept this amendment, for those reasons.

When this punch was first telegraphed on 14 March the responsibility for FOI at that stage fell within the Chief Minister's portfolio. There has subsequently been an administrative rearrangement. There was an indication from a spokesperson for the Chief Minister that FOI ought be examined, and there may be an omnibus set of proposals brought forward later this year. Mr Humphries in his remarks on this change did highlight the fact that there have been a series of amendments to the Federal FOI Act in recent years which have not been considered in a formal way for our Act. It may well be that we do not want to go through all those processes; but we ought at least to examine to see whether our FOI Act is currently in its most effective and best state, and we intend to proceed with that.

There may be some possibility then of amending the Act to allow an application with an accompanying request for remission to have time limits on the remission decision, and perhaps fairly strict time limits on the remission decision, so that time on the primary application would begin to run only when the remission decision had been made, or a fee paid, depending on the appropriate circumstances; and perhaps a provision that a failure to make a remission decision within time would mean an automatic remission. That could at least prompt decision makers to be more swift on that original remission decision, which may look at some of the mischief that Mr Humphries was proposing to deal with.

The point he makes is fair - that it would be inappropriate for any agency to be deliberately withholding a decision on a remission in order to frustrate time. We can accept that, and I think that may need to be dealt with, or looked at later on. But at this stage I am not supporting Mr Humphries's proposal, because I think it goes too far and will result in something that the Liberals are generally opposed to, which is potentially a wasteful process and a process which does not properly address what is a user pays regime. So, I cannot support the amendments.

MS SZUTY (11.56): Madam Speaker, I speak in favour of Mr Humphries's amendment Bill. I feel that the intention of the Bill is good and that it will be of benefit to the wider community by allowing more and fairer access to ACT Government records. It seems particularly fitting in these hard economic times, with increased unemployment and underemployment, and recognised heavier burdens on community groups, that this Assembly give the term "freedom of information" real meaning.

Mr Humphries's amendment Bill gives what would seem to be an obvious right - the benefit of the doubt. If a person applies for information under the Act and is entitled to claim an exemption of fees, there should be no impediment to the processing of their application. Once a decision is made about eligibility for exemption, that information can be conveyed and any fee collected; but it should not interfere with the other process, the accessing of material under the Act.

I put it to members, Madam Speaker, that to make the processing of an application subject to another decision on remission or exemption of an up-front fee discriminates against those who would be unable to meet that cost. While we might find it hard to imagine that a sum of $30 or $40 could be that critical in a person's or group's budgeting, I assure you that it can be.

Canberra's welfare agencies have reported escalating calls for financial assistance, unemployment is high, and other indicators show that not everybody in the ACT is in a position to pay up-front fees and then wait for the eventual refund if they are successful in gaining a remission. Likewise, those who act in the public interest should not be penalised for putting their time and energy into following up an issue.

MR MOORE (11.58): Madam Speaker, I listened with interest to Mr Connolly and his objections to this Bill and the problems that it might create for the public servants who are preparing information on freedom of information requests, and I must say that I am not convinced by his arguments. He is saying that there will be work done and when people find out that they do not have access to financial support as far as the freedom of information request goes they are simply going to opt out. That may well be the case. His conclusion, therefore, is that a lot of work will be done and basically the taxpayer will pay for it.

My conclusion is different. My conclusion is that it will force the public servants who are dealing with the applications for funding to get their act together and make their decisions very quickly. That is what I think will be the effect of this Bill. I think that that will have an extra benefit for those who apply for freedom of information and also apply for the financial assistance. That being the case, Madam Speaker, I shall lend my support to Mr Humphries's Bill.

MR HUMPHRIES (11.59), in reply: I thank members who have contributed to the debate on this matter. I sense a view around the chamber that there is a certain timeliness in this procedure, even if some of us cannot bring ourselves to support it. I do not think much needs to be said, except to make two comments about things that Mr Connolly, the Minister, said. First of all, we should dismiss the question of what happened at Weetangera as a red herring. This Bill is not about the basic right of government to exclude certain documents from exposure under FOI. We might have another debate about that at another time. Mr Moore might care to bring forward a Bill saying that governments can never hide anything, and we can debate that when that comes before the Assembly. I am sure that Mr Connolly will not be supporting such a Bill when it comes forward.

I do not argue with the right of governments to refuse, for example, to disclose Cabinet documents. Our Cabinet system of government would be under serious threat if we had a system where those documents could be disclosed. Mr Connolly sort of hinted that in the Weetangera debate the Alliance Government in some way took advantage of the loopholes it is now trying to close. If that were the case, I would certainly strongly suggest that Mr Connolly bring forward evidence of that, because I do not recall that ever having been the case. If there were deliberate delays, using these kinds of provisions as a tool, I hope that he produces evidence of that.

The second point is that he complains about the problem of where a department might spend considerable time and effort producing information under an FOI request and then find that the whole exercise has been wasted because the remittance then is not made and the person says that they do not want the information. The fact of life is that our departments in the Territory really have to be a bit quicker about making those remission decisions. They are not hard decisions to make. They are usually evident on the paper itself that presents the application. Is the person who has made the application entitled to some remission of fees? Are they in the condition that they say they are in? Are they perhaps a pensioner who cannot afford it, or are they someone with a genuine public interest? Those things will almost always - - -

Mr Berry: A politician with a bodgie public interest claim.

MR HUMPHRIES: Indeed, a politician is a good example of that person.

Mr Berry: A politician with a bodgie public interest claim.

MR HUMPHRIES: No, there is no bodgie public interest. I know that you love to describe all applications to find out what your Government is doing as bodgie; but the fact is that we have found some very interesting things by probing through FOI about your Government, and we will continue to do so. I hope that this amendment will help us do so.

Before we dismiss that kind of problem let us be careful about indicating that unfortunately our departments in the ACT have not been very good about dealing with matters promptly. I refer to the matter that I raised when I originally introduced this Bill. In the period between 11 May 1989, self-government day, and 30 June 1990 - that includes some period of the Alliance Government, of course - only 65.3 per cent of freedom of information applications were processed within the statutory time limit. That is a very unfortunate reflection on what has been happening within our bureaucracy, under both Alliance and Labor governments. I certainly think that we should be saying to

our public servants, "Let us deal with these requests in the spirit in which the Freedom of Information Act has been drafted". There is no reason for huge expenses to be incurred by departments if they deal promptly with remission requests. I am convinced that the problem Mr Connolly has raised could easily be dealt with. I commend the Bill to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

CRIMES (AMENDMENT) BILL 1992

Debate resumed from 8 April 1992, on motion by **Mr Humphries**:

> That this Bill be agreed to in principle.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.04): The Leader of the Opposition was a bit agitated about what just happened. It was just that the Government was showing sense in not calling for a needless division, in order to get on with the business of the house.

The proposal that Mr Humphries has before the Assembly in this Bill is a proposal that the Government has some sympathy with. We understand what he is trying to do and it is a goal that we would support. I have some real doubts as to whether this is the way to go about it and whether the mischief that he is directing his attention to has not been solved in a better way under the Corporations Law. It is not something that I will be supporting at this stage, although if the debate were to be adjourned and we were to come back at a later stage on the detail and there were other views available to me we may reconsider.

What Mr Humphries has proposed in his Bill is to insert a new section into the Crimes Act to deal with criminal conduct by directors. That, as I say, is a goal that we would support. It is essential that white collar criminals be pursued with vigour. It is essential that the criminal law deal with the director and the person of substantial means with as much vigour as it deals with the ordinary thief, the armed robber, or what have you. It is essential that the law be seen to be as vigorous for those at the top of the pile as it is for those not so far up the pile.

He directed his attention, in particular, to a problem in the law that was seen to be shown by the case of R v. Roffel, a 1984 decision of the Victorian Supreme Court. That involved the interpretation of section 72 of the Victorian Crimes Act, which is in similar terms to our section 96 which Mr Humphries says is inadequate, for the reasons shown in the case. In that case the defendant was the managing director and secretary of a company. He had the power to withdraw money from the company's account. There was no question about that. He wrote four cheques out to cash and cashed them, and one to a travel agent for a trip. All of that was done quite properly within his power. He had authority to do that.

The problem was that the company owed money to a number of creditors and once the director had cleaned out the accounts the creditors were left with nothing to pursue. Roffel was charged with theft under the Victorian Crimes Act and was convicted by a jury, but on appeal it was held that this was not theft because he had not dishonestly appropriated material; he had taken what he was entitled to take, so there was no dishonest appropriation there. The problem, of course, was that the creditors were left without the money that they were entitled to.

I have substantial doubts as to whether Mr Humphries's express provision which deals with dishonestly appropriating property of a corporation would solve the Roffel problem, although, as he says in his presentation speech, that is his goal, because, again, what must happen is that an officer must dishonestly appropriate property of the corporation for his own use or benefit or for any other use or purpose other than the purpose of the corporation.

I would have thought we have a better protection for that Roffel-type situation in the Australian corporations legislation, the Corporations Act, which is an Act of the Commonwealth which applies a single set of corporations laws to all parts of the Commonwealth. This is one of the most substantial pieces of law reform achieved in Australia in the last 20 or 30 years. It is, without any question, the largest piece of legislation in the Commonwealth. Members can see the hefty tome that I am currently holding. That is simply the Act, not a commentary on the Act. That is simply the Corporations Act.

It is an Act of some 1,369 sections. One tremors at the thought of the last Assembly debating such an Act. We would have been here for 20 years. It contains a general provision - - -

Mr Kaine: Especially if we had a division on every clause.

MR CONNOLLY: Yes, indeed, Mr Kaine; it is too frightening to contemplate. It contains a catch-all clause at section 232(2), which provides:

> An officer of a relevant body corporate 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.

Mr Humphries: I referred to that in my speech.

MR CONNOLLY: You did indeed. That contains quite substantial penalties. What is significant is that the penalty provision specifically makes clear that there is a higher penalty if the dishonest intention was with the intention to deceive or defraud either the body corporate or creditors of the body corporate. That penalty provision really locks into the Roffel problem, where the money was taken out quite lawfully. It was not dishonestly appropriated from the company because Roffel had the ability to do that; but it was, or potentially could have been seen to have been, a fraud on the creditors because the creditors missed out because the person with authority to take the money did so, leaving no ability of recompense for those creditors.

There has been, I am advised, a fairly robust approach to this catch-all provision in recent years in relation to the conduct of the National Companies and Securities Commission, as it was, now the Australian Securities Commission. In the South Australian Supreme Court, in Grove v. Flavel in 1986, reported in

volume 11 of the Australian Company Law Reports, the full court of the South Australian court held that it was a breach of these provisions if a person, knowing that there were liquidity problems, took money out for their lawful use but in such a manner that it defeated the claims of the creditors.

So, Madam Speaker, the Government understands what Mr Humphries is trying to do and has sympathy. We should always be vigilant to ensure that our white collar crime provisions are robust and will catch dishonest conduct. The type of dishonest conduct that was referred to in the debate is conduct that we believe should be made criminal. As at present advised, I think that we have probably got it in section 232, and the various catch-all provisions there. We could be open to persuasion to the other view, but we would really need to get the views of the Law Society and the ASC on that.

In some discussions that I had with Mr Humphries earlier he suggested, very sensibly, because this is important - when you are tampering with the criminal law and when you are creating new offences, particularly if you are creating new offences that have an impact on corporate behaviour, which is what we are doing here, you should be really confident that you are doing the right thing - that we could perhaps adjourn this debate, after we have had the Government's preliminary response, to enable both Opposition and Government to get some broader canvassing on this and to ensure, Madam Speaker, that if we do move to tighten up the law, if that is necessary at the end of the day, we do so confident in the knowledge that it is not either unnecessary, which on my current advice may be the situation here, or potentially adding further confusion to an already complex area of law.

With the 1,300-odd sections of the national companies scheme, State or Territory assemblies ought to be wary of creating new offences for directors and officers of corporations which could lead to confusion and, indeed, possibilities of legal technical arguments by which well paid and clever lawyers may be able to get a person off the hook by creating confusion between potentially conflicting sections. So, it is a matter that we should tamper with only if we are totally convinced that it is necessary, and as presently advised the Government is not convinced that this is necessary. Mr Humphries's suggestion that we all have a bit of a further think about it is one which is sensible, given the nature of the legislation.

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

Sitting suspended from 12.13 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Medically Acquired AIDS

MRS CARNELL: My question without notice is to the Minister for Health. There are at least five people in the ACT who have acquired HIV AIDS through their medical treatment. Two other people in a similar situation died last year. Assistance for these people is obviously urgent. We must not wait while their situation deteriorates. What is the Government doing to urgently provide compensation for these people with medically acquired AIDS?

Mr Wood: Just follow Gary Humphries's policies, I guess.

MR BERRY: No, no; we will not do that. The issue of medically acquired AIDS is an important one for the Government and as yet no decision has been made in the ACT on the issue of compensation in respect of that. I have met with people concerned with the matter. As members would appreciate, other States and Territories have already made agreements outside of the court system to ensure that long delays do not occur in relation to - - -

Mr Humphries: What about us?

MR BERRY: Gary Humphries says, "What about us?". What a joke! This man was the Minister for 18 months and did nothing. He did not do a thing, and he says, "What about us?". What a hypocrite! This is an important issue, one which the Government views with great seriousness. As I said, I have met with members of the Haemophilia Foundation of Australia and the Haemophilia Support Group of the ACT to discuss the issue. It is a matter that will be coming before Cabinet in due course; but, as members will appreciate, I am not going to predict the outcome of Cabinet's consideration.

I do expect that the Liberals will try to make some political mileage out of it, rather than allowing the Government to get on with the job of considering the matter and doing what they never could do when they were in government. Whether Mrs Carnell wants to or not, she has to accept that there was a period when her people were in charge, namely, Mr Humphries, and he did nothing. This is something that has been left to the Labor Government and it will be dealt with in the usual process, but I am not going to predict the outcome of Cabinet decision making.

Racing Industry

MS ELLIS: My question is directed to the Minister for Sport. Is the Minister able to advise the Assembly when the report commissioned by the Australian racing Ministers on the economic importance of the racing industry will be available for public scrutiny?

MR BERRY: That is an extremely good question in the light of recent revelations which were probably accentuated by a document that was tabled in the Assembly this morning. The racing Ministers did commission a report on the worth of racing to the Australian economy. They did so because they were concerned that nothing similar had been done before, and it was important, of course, to ensure that we had a full assessment of that issue. It is a matter of great importance. We commissioned an inquiry, the worth of which was about $250,000, and that was shared on a pro rata basis, State by State and Territory. The share for the ACT was small.

Mr Humphries: How small?

MR BERRY: I think it was of the order of $15,000 or so. It was not a lot of money.

Mr Humphries: Does it not tell you there how much it was?

MR BERRY: When you are capable of being a sports Minister you can answer the questions. You can even ask some if you can think of something bright to say, but so far you have not managed to do so. Just sit there quietly and listen to what I have to say. You will be given some good information, some of which will drive you bonkers.

One of the most interesting things from a report which was tabled this morning, the ACIL report, comes under the heading "Racing Industry". For those who do not know, ACIL is ACIL Australia Pty Ltd. They are consultants to industry, commerce and government, and to political parties, it seems, and the Liberal Party in particular. This is a paper to the Liberal Party. This is talking about a report which is being prepared for the racing Ministers of Australia, a report that is owned by the racing Ministers of Australia. It is not owned by ACIL; it is not owned by the Liberal Party. The ACIL report, under the heading "Racing Industry", says:

> We are shortly to complete a major study on the racing industry.

I would have thought that that information itself would have been in confidence - what they were supposed to be doing. It goes on to say:

> (gallops, trots and dogs) for State and Territory Racing Ministers.

They admit that they are doing it for State and Territory racing Ministers. They continue:

> It will be the most comprehensive of its type ever undertaken in Australia. Apart from measuring the size and importance of the industry and its linkages to the rest of the economy, the exercise has given us insights into the way racing operates and is controlled. It is not a happy picture.

This is the mob who are supposed to be reporting, I suspect in confidence, to the racing Ministers of Australia. They are now passing opinions on a report that they are preparing for those Ministers. "It is not a happy picture", they say, expressing a view. They continue:

> Even in Canberra there are plenty of examples of waste, lack of competition, and power plays which are not in the interests of patrons or taxpayers.

They go on to say:

> At the appropriate time, we would be happy to provide you with a briefing.

They have done pretty well so far; they have given the Liberal Party a mini-briefing, if you like, on a report on the racing industry that they are doing for the racing Ministers. They have given it to the Liberal Party instead of reporting it to the racing Ministers first.

I am very concerned about this because this report was to do a great deal of good for the racing industry because we would have some reliable, we thought, information upon which to work. It seems that politics is working into it now and I have some doubt as to the objectivity of these sorts of reports. I think any reasonable thinking person in the street would be of a similar view. It affects the ACT Government even further because ACIL - you would remember that name - - -

Mr Humphries: Yes.

MR BERRY: You ought to, because you commissioned ACIL to do a report on trading hours in the ACT. Now, how reliable is that report? What sort of objectivity have we there, or is that just another political report?

Mr Cornwell: I would hate to take a point of order on relevancy here, Mr Berry.

MR BERRY: You can try to take all the points of order that you like. What I am pointing out to you is that we have a consultancy which, on the face of it, has got itself involved in politics and in advising the Liberal Party on how it should operate, and it is using information which it really should have been providing only to its clients.

The serious situation for the Government now is that we have to work out what we will do with the ACIL report on trading hours in the ACT. We have to consider whether or not that report can be considered to be objective. I must say that I am starting to have some reservations. After reading this document that was tabled in this Assembly this morning I would have to say that the racing Ministers would be having some reservations, too, because they would not know - - -

Mr Humphries: I doubt it.

MR BERRY: Mr Humphries says that he doubts it. He might know one of the racing Ministers who has had something to do with the report to the Liberal Party; I do not know.

Mr Humphries: This is a beat-up, Wayne, by you, so I do not think they are going to take much notice of that.

MR BERRY: I do not know about a beat-up. In my view, and I think many other people will form this view, some commercial-in-confidence information has been available to somebody who should not have received it. The report was due, I think, to come to racing Ministers in about September this year. I will be writing to racing Ministers drawing to their attention all that has occurred in relation to this matter, because we really have to work through it to ensure that the best interests of racing, not only in the Territory but across Australia, are served. They will not be served with these sorts of breaches of the confidence that I would expect to be persisted with by consultants who are dealing with reports on behalf of governments or various governments.

Bank Security Shields

MR STEVENSON: My question is to Minister Wayne Berry and concerns bank security shields which when activated rise at a great speed from the counter to the ceiling. I believe that these security shields are currently in use in the ACT, or their use has been proposed. If one watches the actions of the staff or customers at a bank where such shields are fitted, it is obvious that there is a potential for serious physical injury, or even death, if someone's arm or head is over the shield when activated, whether accidentally or intentionally. It is equally obvious that customer warning signs or staff training may reduce but not prevent the potential danger. What action can the Minister take to ensure that people in the ACT are not exposed to this risk, either currently or in the future?

MR BERRY: First, I would advise Mr Stevenson that he should not stand around banks watching things like that. Do not wear your balaclava or a motorcycle helmet, or you will be in deep trouble. I must thank Mr Stevenson for giving me some warning in relation to this matter, because I have been able to gather some information which enables me to answer it straightaway.

There has been some consultation with banks and building societies and the relevant union involved in the use of this system within the ACT. Officers of the ACT Occupational Health and Safety Office have been assured that safety measures are in place to minimise the risk to both staff and the customer. They do not say much about the robber. I understand that some unfortunate person was killed in Sydney as a result of one of these things. They are potentially dangerous if people are not familiar with them.

A sign is displayed at teller booths, informing the public not to place items on the counter due to the installation of the security system. The system is architecturally designed to reduce the possibility of people leaning over the area where the screen may rise. This is done by attaching perspex screens, approximately 35 centimetres in height, in front of the security shield system. This minimises or discourages the likelihood of persons bending over the counter. People cannot sit on the edge of the counter, as smaller perspex screens are attached close to the edge of the counter, if you can picture that. I will leave that to you because you have obviously been watching. If the screen inadvertently rises, there is a hinged cover in place. This folds back in such a way that it pushes an object or person out of the way as the screen rises. That must not have occurred - - -

Mr Connolly: Because he had a pistol in his hand and was pointing it at the nose of the teller.

MR BERRY: Right. Staff are also trained to stop anyone leaning over these security screens. The switch mechanism that activates these screens is in a position where it cannot be accidentally activated.

I will refer this matter to the Occupational Health and Safety Office, nevertheless, with a view to further discussion with industry parties, employer and employee organisations, just to see whether there are any improvements that might be available. They need to be scrutinised closely to ensure that there is absolutely no risk to people from these security arrangements. Thank you again for the question.

Smoking in Public Places

MR WESTENDE: Madam Speaker, my question is directed to Mr Berry, the Minister for Health. In your ministerial statement of 12 May dealing with the replacement of tobacco company sponsorship of the Canberra Raiders you stated:

> ... the Government promised action in the area of smoking in enclosed public places ...

Why then does the Government allow bus drivers to smoke on buses while disallowing it for passengers, and why is smoking permitted around the entrance doors at the Woden Valley Hospital where many patients and visitors sit, even though the no-smoking signs are there displayed?

MR BERRY: I will deal with the bus driver issue first. It seems that there is a certain passion amongst the Liberal Party about ACTION, or about doing something to ACTION - selling it, I suspect; selling the most profitable bits, I suspect, to their mates. We discourage smoking amongst ACTION bus drivers.

In relation to the Woden Valley Hospital, I do not know whether you went out there and put this question together yourself; but if you had done so you would have noticed that the area that you are talking about is outside. We do not intend to prohibit people from smoking outside, even though it still could be injurious to their health. I have seen the signs of which you speak; but there is no law, I think, that would prevent somebody from standing near a sign that says "no smoking", outside, and smoking. It would merely be discourteous for somebody to do so, because non-smokers might be in the region. I would have hoped that people who do smoke would pay people who do not smoke the courtesy of not smoking in their presence, but we do not intend to legislate to prevent people from smoking outside.

Industrial Relations

MR LAMONT: My question is directed to the Minister for Industrial Relations. Does the Minister support statements by the Tasmanian Premier Ray Groom that APPM's industrial relations tactics are ham-fisted and heavy-handed?

Mr De Domenico: I raise a point of order, Madam Speaker. I cannot see what the opinion of Mr Groom or any other State or Territory Premier has to do with the workings of this Assembly.

MADAM SPEAKER: The question is in order. Let Mr Berry answer it, please. Mr Berry, answer the question.

Mr Kaine: It is asking for an opinion, Madam Speaker. I suggest that it is out of order.

MADAM SPEAKER: Let Mr Berry answer the question, please.

MR BERRY: If you are patient enough to sit down and listen, I am sure it will come through to you that this will be entirely relevant to the ACT. What has been said in Tasmania is relevant to the ACT in that the circumstances which are occurring in industry down there and which are the centre of a major industrial dispute are the same as what is proposed by Hewson and Howard for industrial relations as they will occur in the ACT.

Mr Kaine: What are you suggesting? What is your proposal?

MR BERRY: What I am going to say to you is that it is entirely relevant and the Labor Party stands opposed to those ham-fisted, clumsy arrangements. That is a Liberal person who is now in power, not somebody who is in opposition and who can crow about what they are going to do to the Labor movement and crow about what they are going to do to workers. They are going to walk in, call the police in, have workers arrested in their normal place of work, and accuse them of being trespassers. This is what the Liberals intend in the ACT when they are in opposition; but Groom has shown them that when you get into government it is a different matter.

Mr Humphries: It is a growing trend too.

MR BERRY: You can squeal about these matters in opposition - all care, no responsibility - like Mrs Carnell on health. Any story will do. A negative one will do as long as you can make a noise. You screech about it all you like. But when Groom gets into government, what does he say? He says, "Ham-fisted and clumsy", and he has got it right too.

Even Mr Groom would not allow people like Mr De Domenico over here to throw sick workers out on the street off workers compensation benefits. Mr De Domenico supports the view that workers should be terminated from workers compensation when the employer wants to. That is what he wants to do. He does not want to rehabilitate them. He is not interested in that. That is the sort of industrial relations which is being proposed by the Liberal Party; that is why it is relevant to consider Groom's statement in the context of the ACT. Hewson and Howard want to place workers in a weak position, to force them to negotiate - - -

Mr Humphries: I take a point of order. Madam Speaker, we have seen here a question about a Tasmanian Premier, and the Minister has drawn this matter out to talk about the Federal Opposition. None of it touches on the ACT. I would ask you to rule that the question is irrelevant and is out of order.

MADAM SPEAKER: I have already ruled that the question is relevant. Members are entitled to ask a Minister about anything relating to public affairs with which that Minister is connected. This Minister is connected with industrial relations and he is answering about his interpretation in relation to ACT industrial relations. I am ruling, and Mr Berry has the floor.

MR BERRY: This just goes to show you how dull the Liberals are when it comes to industrial relations. This just goes to show how dull they really are. They do not understand the application of the Federal industrial relations laws in the Australian Capital Territory. Of course, what Hewson and Groom are talking

about are issues which concern Federal industrial law which will impact on the Australian Capital Territory. Tony De Domenico knows that, because he is nodding. Turn around.

Mr De Domenico: No, no; I am not nodding at you.

MR BERRY: Ray Groom has seen that it does not work. It appears that he understands what the conservatives' industrial relations policies really are and what they would cause. Statements by the Premier that the APPM approach to industrial relations is ham-fisted and heavy-handed are entirely appropriate. That is why the "frightpack" approach to industrial relations has to be resisted at all costs. That is exactly what a Federal Liberal government wants to impose on the rest of Australia and the ACT, and that is exactly what the Liberal Party in the ACT want to impose on ACT workers; and that is why the Labor Party will stand to defend workers' rights.

Acton Peninsula

MS SZUTY: My question without notice is to the Minister for Health. Has the Minister given any further consideration to the timetabling for development of health facilities on the Acton Peninsula and could the Minister affirm plans to establish a hospice on the site as a priority?

Mr Kaine: It is under "H" for hospice, Wayne.

MR BERRY: It is very important to address these issues with as much accuracy as possible. That is something that the Liberals never bother to pay much attention to. Thank you very much for that question. That is an important issue which is of concern to the people of the ACT. It is something which was featured in the Government's election campaign and we are closely interested in it.

In July last year the Government decided in principle to locate a range of non-acute health services on Acton Peninsula. Those services included rehabilitation, convalescent and aged care services, relocation of the Queen Elizabeth II hospital for mums and babies and the hospice.

ACT Health has been managing a planning process to develop detailed proposals for these services. An advisory committee was formed, which included community representation, to assist the planning process. A draft report was prepared, outlining the requirements for each service proposed for location at Acton, and proposals for the Acton site are expected to be considered by the Government shortly. They are issues that will be coming up to Cabinet shortly and we will keep you posted on developments.

Mr Humphries: Nothing has happened, in other words.

MR BERRY: Quite a lot has happened.

University of Canberra Council

MR CORNWELL: My question is addressed to the Minister for Education. Mr Wood, I refer to my question of 7 April in this place concerning two Assembly appointments to the Council of the University of Canberra following a 10-month delay, and your reported comment in the *Canberra Times* the next day that the recommendation was going to Cabinet "probably next week". That was a month ago. I would ask when this internal factional wrangling of this Labor Government is to be resolved and - - -

Mr Connolly: The clan or not the clan?

MR CORNWELL: We have only waited 10 months for this, Mr Connolly. When is it to be resolved so that the appointments can be announced and the 11-month inconvenience to the university and the embarrassment that I believe this Assembly has suffered can also be resolved?

MR WOOD: Madam Speaker, Mr Cornwell says that something like 10 months has elapsed. I will not dispute his timetable, but we might recall that all the time Mr Humphries was Minister for Education the matter was still current. So, if you want to compare the time frame, maybe you should do that. As to internal factional wrangling, I do not really understand what you are getting at. Maybe you are assuming that because certain things happen on your side of the Assembly they happen over here also. I can tell you that that is not the case.

I will explain what has happened here. I had developed the proposals for appointments to the University of Canberra along with some other appointments and then, I have to say, we looked rather more closely at the requirements and I discovered that I was intruding into the Chief Minister's territory. So, I took my information down to the Chief Minister; but, of course, she has her views. She may be pursuing other ideas; I do not know. But that was - - -

Mr Kaine: Can't you agree?

MR WOOD: The Chief Minister is the Chief Minister and I willingly defer to her views. It was a confusion. Perhaps I should earlier have noted that the appointments are at the direction of the Chief Minister and passed it over earlier. I am sure that, had I done so, it would be well and truly settled by now.

Clinical Waste

MRS GRASSBY: My question is to the Minister for Urban Services. Could the Minister please explain why medical swabs, sanitary napkins and other unmentionables were recently found dumped at the Mugga Lane land fill site?

MR CONNOLLY: I thank Mrs Grassby for the question. Members may have seen the front page story in yesterday's *Valley View* relating to the discovery by journalists from that paper of plastic bags containing, apparently, blood-smeared material. I indicated that the Government would take a very serious view of such a thing. The clinical waste legislation, which was enacted in early 1990 and which

had been put in place by the first Follett Government, I think by Mrs Grassby, was designed to make sure that material that was dangerous would not be disposed of in land fill.

We have a quite comprehensive licensing system in the ACT. Persons who transport clinical waste must do so in specially approved trucks or vehicles. There is extensive training that the drivers have to comply with, extensive signposting on the trucks, and material that contains blood matter, in particular, has to be disposed of at the Totalcare facility at Mitchell, for which persons, of course, have to pay the Government or pay Totalcare a fee. It is expensive to have this material collected because the collectors have to comply with high standards and pay for the incineration plant. We would be most concerned if there was evidence that firms were charging clients for disposal in accordance with the Act and disposing of the material at the land fill.

As at present advised, it seems that the material at the land fill was not clinical waste within the meaning of the Act because it had been treated in an approved manner to render any blood products safe. I can assure the Assembly that we will very closely scrutinise any material that turns up at the tip. The companies involved have been identified and we will ensure that no breach of the Act occurs. If we detect a breach of the Act we will pursue the matter vigorously.

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

INCORPORATION OF DOCUMENT IN *HANSARD*

MR LAMONT: Madam Speaker, I seek leave to have incorporated into *Hansard* the document tabled by Mr Moore this morning - those parts of the document which commence "Some suggestions for Trevor Kaine" and conclude on page 9 with the words "absolutely dreadful imagery".

Leave granted.

Document incorporated at Appendix 1.

PAPERS

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport): For the information of members I present, pursuant to section 97 of the Audit Act 1989, Office of the Public Trustee for the ACT Financial Statements 1990-91 and the Auditor-General's Report; and "Policing in the Australian Capital Territory", Annual Report, 1990-91, together with financial statements and the Auditor-General's Report.

AUSTRALIAN HEALTH MINISTERS CONFERENCE
Ministerial Statement

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (3.02): Madam Speaker, I seek leave to make a ministerial statement on the Australian Health Ministers Conference held on 14 April 1992.

Leave granted.

Mr Humphries: Did you tell us about that?

Ms Follett: Ask your Whip.

Mr Humphries: He says no.

Mr De Domenico: It was on the draft program this morning, I must admit. It is not on the green program.

MADAM SPEAKER: Whether you know about it or not, Mr De Domenico, Mr Berry is about to make the statement. Would you go ahead please, Mr Berry.

MR BERRY: Does this mean that all of a sudden we have six prepared speeches again?

Madam Speaker, the recent Australian Health Ministers Conference which I attended discussed a range of issues, some of which I feel will be of interest to members of the Assembly. You may be aware that the Medicare agreement, through which we get part of our hospital funding, is due to run out at the end of the next financial year. The ACT, along with other States and Territories, is concerned that the new agreement address some of the threshold issues concerning the general trend in Commonwealth-State financial relations over the past decade.

The main threshold issue is the overall quantum of funds provided by the Commonwealth to the States and Territories. The States and Territories have progressively been funding a greater proportion of the overall quantum of funds provided by the Commonwealth to the States and Territories. This is against a background, I should say, of a decline in real terms of financial assistance grants and increasing restrictions on Loan Council borrowings. The ACT gets about $50m for the Medicare grant, which, as members who have followed this would know, falls far short of the $156m or so that it costs to run the three public hospitals - Woden, Calvary and QEII.

There is also a need for the Commonwealth to contribute in a much more substantive way to the capital requirements of hospitals, particularly for upgrading and maintenance of capital equipment and buildings. The Commonwealth has indicated a willingness to discuss this issue as part of ongoing negotiations. The Health Ministers have referred the threshold issues of the overall quantum of funds and the associated role and responsibilities of each level of government to the Premiers-Chief Ministers forum.

In renegotiating the Medicare agreement, both the Commonwealth and the States are committed to advancing structural reform within the Australian health system. The majority of Health Ministers concurred with a negotiating framework which included working towards more concrete objectives and outcomes for new funding arrangements; working towards area-based planning

and service agreements; agreed levels of service provision and access; the development of incentives programs for strengthening management efficiency and clinical accountability in the health system; and developing national data standards for monitoring and evaluation.

Madam Speaker, the ACT is well placed for the upcoming negotiations as many aspects of this framework are already being developed here. Similarly, the ACT is well placed with respect to the national mental health policy which it contributed to developing. The policy emphasises moving of mental health services away from large institutions and integrating them across a range of acute hospital and community based services. The ACT already operates on this type of model. To parallel the national consumer advisory group that will be established under the policy, the ACT has already taken steps to develop a mental health advisory committee which will provide me with advice as to the further development of mental health services. Along with other States and Territories, we have sought the Commonwealth's commitment to funding of new mental health initiatives through the Medicare renegotiation process.

Ministers also ratified the joint agreement with the Commonwealth on the implementation of a program which will provide an organised approach to the prevention and management of cervical cancer. This has been developed after careful evaluation of Australian pilot programs and successful programs now operating overseas. The ACT is currently in the establishment phase of the program which will commence from the middle of the year. Agreement has also been reached on the extension of the national better health program for another year pending the final results of evaluation.

Ministers also discussed a progress report on the development of new national health goals and targets. Five groups of goals have been developed and these will reflect both health status outcomes and the complex series of factors which are known to influence these. The groups are preventable mortality and morbidity, health lifestyles and risk factors, health skills, health services, and healthy environments. The development of these national goals and targets reflects an increasing emphasis on the need to focus on outcomes of health services and in particular the primacy of the consumer.

Outcome based approaches, a theme which permeates the national health strategy review, are likely to emerge as an important ingredient of the new Medicare arrangement, not only with respect to the agreement with the States and Territories but also in the operation of health services in the private sector. Universal access and high-quality effective service are going to continue to be predominant themes at the national level, as indeed they are here in the ACT. Thank you, Madam Speaker and members, for the opportunity to present this statement in relation to the Australian Health Ministers Conference of April 1992. I table the following paper:

> Australian Health Ministers Conference - Ministerial statement, 13 May 1992.

I move:

> That the Assembly takes note of the paper.

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

ADMINISTRATION AND PROCEDURES - STANDING COMMITTEE
Report on Standing Orders 79 and 153

MADAM SPEAKER: I present, for the information of the Assembly, the Standing Committee on Administration and Procedures report on standing orders 79 and 153.

MR LAMONT (3.09): I move:

That the report be noted.

MADAM SPEAKER: Are you going to speak to it, Mr Lamont?

MR LAMONT: I reserve the right, Madam Speaker.

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

ADMINISTRATION AND PROCEDURES - STANDING COMMITTEE
Report on Assembly Business

MADAM SPEAKER: I present, for the information of the Assembly, the Standing Committee on Administration and Procedures report on Assembly business. At the committee's meeting on 28 April 1992 it formally considered a proposal relating to Assembly consideration of business relating to and arising out of the work of Assembly committees. This report makes certain recommendations to the Assembly on these matters.

MR LAMONT (3.11): Madam Speaker, I move:

That the report be adopted.

In adopting the report, the Assembly would be adopting a new temporary order 77 which will define Assembly business and provide that it should have precedence over all other business on Thursday mornings after the presentation of Executive legislation. Madam Speaker, as you, as the chair of the standing committee, know, some concern had been expressed that some members of the Assembly were unclear as to the procedures for making references to standing committees of the Assembly or giving the reports of standing committees and that there were other matters to which the Assembly needs to address itself, which are basically referred to as Assembly business. This proposal, which was adopted unanimously by the members of the Standing Committee on Administration and Procedures, provides for that mechanism.

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

AUTHORITY TO RECORD AND BROADCAST PROCEEDINGS

MR BERRY (Deputy Chief Minister) (3.11): I move:

That the Assembly authorises:

(1) the recording on video tape without sound by television networks of proceedings during question time on Thursday, 14 May 1992; and

(2) the use by any television station of any part of the recorded proceedings in subsequent news, current affairs and documentary programs and not for the purposes of satire or ridicule.

This matter has been dealt with before in the Assembly. The words of the motion describe what will be the outcome if this motion is successful, as I am sure it will be. We will see a television camera set up in this place to record question time on Thursday, 14 May - much to the pleasure of the people of Canberra, I am sure.

MR HUMPHRIES (3.12): Madam Speaker, the Liberals will certainly support this motion today. However, I sincerely hope that we will have a sufficiently long question time tomorrow to enable those members who want to ask a question to rise to their feet.

Mr Connolly: We are talking about four seconds here.

MR HUMPHRIES: The fact is that the stations usually like to get shots of people on their feet rather than sitting back reading or looking around. They like to have people on their feet talking about something. If today's question time were used, they certainly would not see several members on this side of the house on their feet. I sincerely hope that we get the benefit of a decent question time tomorrow, so that we can make sure that this opportunity is properly taken advantage of.

Question resolved in the affirmative.

WORLD HEALTH DAY
Ministerial Statement

Debate resumed from 7 April 1992, on motion by **Mr Berry**:

That the Assembly takes note of the paper.

MRS CARNELL (3.14): On the first day of sitting, Tuesday, 7 April, we had the benefit - or perhaps it was not so much a benefit - of hearing a statement by the Minister for Health entitled "World Health Day: An ACT Perspective". As the Minister pointed out, the theme of World Health Day was heart health. Unfortunately, Mr Berry seemed to get sidetracked, away from the issue of what the Government is doing to address heart health and cardiovascular disease and towards what seemed to be an arrogant display of credit taking for what were Alliance Government initiatives.

However, let me start my response by raising the issue of establishing a cardio-thoracic unit in the ACT, which is a question relevant to World Health Day's heart theme. I do not think it is helpful for health outcomes and the quality of life to send patients suffering from heart problems interstate to obtain complicated surgery. I note that in Mr Berry's speech he indicated that the Government will be looking at the viability of a cardio-thoracic unit in the ACT. That statement represents a welcome departure from what he has previously said.

On 18 December last year he said, according to the *Canberra Times*, that we did not need a cardio-thoracic unit. As of yesterday, Mr Berry suggested that everything in the *Canberra Times* is obviously the truth and nothing but the truth. At exactly the same time he acknowledged that we currently have around 300 people travelling interstate to obtain heart surgery, and he drew a comparison between this figure and the levels of activity experienced by two teams working on bypass surgery at Westmead Hospital. Mr Berry said, and remember that this is all absolutely the truth:

> 300 people is a lot. But what you have to understand is that Westmead Hospital, for example, has two teams working on bypass surgery at any point and I think they do about six a week ... not the sort of through-put on my assessment that would be required in the ACT to establish such a unit.

Mr Berry's assessment is very strange. Whether he meant that each team did six per week or that this was the number performed by both the teams, I am sure you will agree that we have the sort of throughput, on Mr Berry's own figures, required to establish a cardio-thoracic unit in Canberra. Had Mr Berry done his arithmetic, he would have seen this: 300 people divided by 52 weeks in the year equals 5.76, which is very close to the six operations performed by each team at Westmead.

Surely this is a good case for establishing a team. Such a team would be treating 5.76 patients per week in Canberra compared to six a week at Westmead - and this is assuming that we attract absolutely no cases from surrounding districts. As we are very well aware, a large number of cases in the ACT come from surrounding districts. Hopefully, there will be more with the advent of the principal hospital. How Mr Berry can have admitted these two statistics in the same breath is beyond me. Perhaps the Health Minister has redone his sums and that is why he is showing some new interest in the need for a cardio-thoracic unit.

The Minister mentioned in his speech efforts to establish a clinical school. Having a cardio-thoracic unit would help make such a clinical school viable, because its success is dependent upon the types of activities that are taught and the variety of skills we will be encouraging our students to acquire. I acknowledge that the ACT has severe funding problems. Even after mustering the capital funding necessary to start such a project, we would still be pressed to find the recurrent funding necessary for its maintenance. It has to be a question of priorities. Surely money would be far better spent on a heart unit than on an abortion clinic, or even on an independent complaints unit when we already have a number of other complaints facilities in the ACT.

It is also a question of introducing creativity and flexibility into policy and into the exercise of revenue raising. We are more than willing, on this side of the Assembly, to put forward suggestions and to develop solutions that will help the Government maintain and extend its services in the face of its obvious funding constraints. Let me make one suggestion now: That the Government consider establishing a cardio-thoracic unit as a joint venture with the private sector. The Government, and particularly the Minister for Health, must reform their thinking with regard to the non-government sector. By inviting private sector participation, we would really be establishing an alternative means of raising more total money for our health system. We would be failing to use the total resources available to us if we were to do anything less, and this Government is failing.

Another advantage of inviting private sector involvement, as demonstrated by the joint venture projects in hospitals at Port Macquarie in New South Wales and Mount Gambier in South Australia - - -

Mr Berry: Do they do cardio-thoracic in Port Macquarie?

MRS CARNELL: Yes. Another advantage is that it allows the introduction of workplace contracts which aim to secure definite levels of productivity and improved quality control and include service guarantee agreements which are outcomes oriented. In the Port Macquarie project, 70 per cent of the beds will be public; the remainder will be private, and the cost to government will be substantially less. The people of Port Macquarie will have a hospital with 70 per cent public beds substantially earlier than they would have otherwise.

There are a number of ways that such a project could proceed. If we had just a little imagination and if we were prepared to invite rather than dismiss the non-government sector and the private sector, we could go a long way towards alleviating some of the funding problems faced and provide more service for Canberrans and more hospital beds, both public and private. This would be much better than using Mr Berry's current tactics. His 1991-92 budget cut health spending across the board by 5 per cent in real terms. At the same time, Mr Berry informed the Board of Health that no services were to be cut. This is Mission Impossible.

Any management expert could have told Mr Berry that this style of budgeting merely results in services which are cash-strapped, undercapitalised, and less and less able to provide for community needs. It would have been more sensible to address the question of which services are needed and appropriate for the Government to provide, rather than to cash starve them all.

Mr Berry crows about his wonderful financial management. He seems to believe that the installation of Fiscal, a cash-based accounting system, is the answer to all Health's budgeting problems. Mr Berry's inaction in the implementation of accrual accounting - not just end of year accruals but project-based, management-based accrual accounting - shows his real lack of knowledge and understanding of financial management. I note that last year the Hirth report by Arthur Anderson, an in-depth and wide-ranging inquiry into financial management in the ACT commissioned by Gary Humphries, the then Minister for Health, made numerous recommendations concerning accrual accounting. We have seen very little happen since that time.

I should like to mention two further matters. Firstly, I agree with Mr Berry that we need to direct more attention to the provision of non-acute services, but this will not be achieved while Mr Berry makes cuts to community nursing and other community-based health facilities. My second and related point is that community nurses are particularly important if day surgery is to achieve its potential in our health system. We cannot just "shove 'em through quicker", as suggested by a Labor interjection during the last sitting week. The fact is that day surgery patients may well suffer unless there is adequate back-up and unless proper care is available when they return from hospital.

Day surgery is an important innovation, but it will take time before it really makes inroads into waiting periods and the need for in-patient beds. The Minister for Health seems to think day surgery will be the instant panacea for all his funding problems. It will not. As Dr Greg Herring, a member of the National Day Surgery Committee, said to the Select Committee on Hospital Bed Numbers:

> I think it is going to take probably another ten years before day surgery develops sufficiently in Australia to make even a small dint on the necessity for inpatient beds or even the provision of day surgery facilities within a private hospital or indeed a public hospital.

We should not expect day surgery to work miracles in the immediate future. Day surgery will not work while the infrastructure required for it to work is left unfunded. For instance, the 30-bed procedures unit at Calvary Hospital, while completed last year, is still not operational - I imagine, due to a lack of funds.

Mr Berry: Ask the Calvary board.

MRS CARNELL: With $800,000 less, yes, Mr Berry. I repeat: Day surgery will not reach its potential unless there are sufficient funds available to improve all levels of domiciliary care.

In summary, we do not object to a statement charting positive developments in the area of health, but we do object to a display of credit taking, with no new ideas, with no direction, and with little obvious capacity to address the very real problems in our health system.

MR HUMPHRIES (3.26): Madam Speaker, this statement is not about World Health Day at all, as Mrs Carnell indicated; it is about ACT health. In fact, when someone asked me, "Have you seen the statement about Heart Health Day?", I thought, "What is he talking about? That has nothing to do with it". This is a statement entirely about ACT health, and it is another one of those sweated apologias that this Minister is compelled to resort to every so often to try to salvage a bit of self-respect from the current shambles that ACT health is in.

The fact is that this statement, so-called, on World Health Day is thinly based on facts, shrill and thoroughly unconvincing. Speaking as the ACT's longest serving Minister for Health, I have to say that if we examine the statement in detail we find very little in it to justify the assertion repeated throughout that under this Government the ACT health system is full of good news. For goodness sake, good news! What is the definition of "good news"? We have to ask ourselves, in particular, what evidence the Government brings forward to support the claim that under Labor there is lots of good news in our health system.

How do we actually measure the improvement in the system that Mr Berry claims is there? Let us adopt some of the criteria Mr Berry himself suggested when he was in opposition, the sorts of things that he said showed that our system was doing badly under the Alliance Government. Let us take, first of all, bed numbers. It was an important issue during Labor's period in opposition. In fact, it was a vitally important issue. Virtually every day the Assembly was sitting, Mr Berry had something to say about bed numbers. He was constantly asking me what the state of bed numbers was in the ACT and how many beds we had cut out of the public hospital system.

Mr Berry: Madam Speaker, I raise a point of order, and I raise it to demonstrate the lack of planning. I do not mind the sort of lightweight comments that are being made, but I want to demonstrate the lack of planning that goes into the development of a strategy by the Liberals. I refer to Mr Humphries's comments in relation to bed numbers, Madam Speaker, and to page 64 of the notice paper. A motion by Mrs Carnell refers in paragraph (3) to the decision by the Government to wind back the number of public hospital beds. Mr Humphries's comments clearly anticipate debate on a matter which is on the notice paper and are therefore out of order. If you are going to plan strategies in this place, get them right.

Mr Connolly: Or get a consultant.

Mr Berry: Get a consultant. ACIL might be able to help you out. You obviously cannot do it by yourself. This is out of order, in my book.

MR HUMPHRIES: Madam Speaker, we cannot talk about ACT health without talking about fundamental issues such as bed numbers, hospital waiting lists and so on.

MADAM SPEAKER: I was watching what Mrs Carnell said. Mr Berry's statement on World Health Day did cover almost every other aspect of health, but it did not talk about bed numbers. The issue of bed numbers is on the notice paper for debate later, and I am afraid that you are anticipating events that are to come later, Mr Humphries. Perhaps you could talk about all the other matters.

MR HUMPHRIES: I will, Madam Speaker, respecting your ruling. Let us look at another issue that Mr Berry has been shrill about in the last few years when in opposition - waiting lists. That was a constant preoccupation of Mr Berry's - - -

Mr Berry: We should have a look at paragraph (2), on that score.

MADAM SPEAKER: I am afraid that paragraph (2) of Mrs Carnell's motion does refer to waiting lists, Mr Humphries.

MR HUMPHRIES: Madam Speaker, could I suggest that a ruling of this kind is extremely dangerous in that it would permit any matter the Government found contentious to be removed from discussion in the Assembly by putting it on the notice paper. That is impossibly restrictive.

MADAM SPEAKER: Mr Humphries, I respect your opinion, but in this case the matter is here on the notice paper.

MR HUMPHRIES: Could I ask you, Madam Speaker, to take advice on the matter from the Clerk. I think this is an extremely unfortunate ruling to have to - - -

Mrs Grassby: Are you questioning the Speaker? Is he questioning you, Madam Speaker?

MADAM SPEAKER: I believe that he is, but I believe that the rule on anticipation is quite clear and that there is no mention of waiting lists or hospital bed numbers in Mr Berry's statement. However, I will heed the Clerk's advice, just to be doubly sure.

I am afraid that it is correct, Mr Humphries. I take your point: If the Government chooses to gag debate by putting things on the notice paper, it will. But in this case it was Mrs Carnell who put this on the notice paper, so we will have to stick with that ruling.

MR HUMPHRIES: I know that the Government is extremely sensitive about these issues and would rather not talk about them. There will be a time to talk about them. When that time comes, the Government will be no less embarrassed than it is right now. However, there are other things which are not on the notice paper, in particular the budget blow-out in the hospital system. I take it that I am free to talk about that?

MADAM SPEAKER: Yes, you are.

MR HUMPHRIES: Mr Berry, as well as being very shrill about things such as bed numbers and hospital waiting lists, was also shrill about the blow-out experienced by the Alliance Government. He was quick to say that this proved that the Alliance Government was handling health badly; it proved that the Alliance did not have a good firm grip on financial management in the hospital system.

Never mind the fact that Mr Berry, in the period of opposition before he became Minister again, had not asked a single question about the implementation of the Treasury recommendations that caused him so much trouble in 1989. Notwithstanding that fact, Mr Berry came back and said, "This proves that they are a failure as a government". This is also strange, given that Mr Berry had experienced his own blow-out of $7m when he was in office. Apparently a blow-out of his own did not count, but one of ours did. Even a second blow-out by Labor does not count for much, but a single Alliance or Liberal problem does.

We have, since that time, through the extraction of information on the hospital finances rather in the same way as one extracts teeth from a reluctant person, obtained clear evidence of the fact that we again have a substantial blow-out in hospital financing - in fact, of the order of something like $7m. Mr Berry is going to continue to bleat that he has made business rules which somehow exonerate any blow-out, any overexpenditure on the part of the hospital system. If it had been easy to wipe away a blow-out by making some rules excusing them, you can be sure that I would have done so; but I, as Minister, was not prepared to treat so lightly the problems that have been caused to our system. To pretend that they do not exist is really no solution at all.

The fact of life is that this Minister has experienced a $7m budget blow-out. To make this point once more very clearly for the Minister's sake, when he says that the Government did not have a $7m blow-out, it only had overexpenditure which was approved, one has to ask the question: Why was it that, in 1990 and the beginning of 1991, he was not prepared to concede that exactly the same kind

of expenditure, that is expenditure on salaries due to salary increases, by the Alliance Government ought to be similarly excused? The sums of money overspent in the hospital system under us he attacked as a blow-out; the same ones occurring under his Government he says are excusable. There is absolutely no distinction between those two matters, except that he has dressed them up under business rules to say that they are in some way different.

Mr Berry: One was planned; one was out of control.

MR HUMPHRIES: One was not planned.

Mr Berry: You were out of control.

MR HUMPHRIES: You do not know what you are talking about, and you have proved it by what you have done already. I know that it is humiliating for the Minister to have this happen to him twice, and I know what must have happened to him when he was first back in government. He must have gone upstairs and said to his bureaucrats, "Look, I am in a real pickle here. I have been canning the Liberals on bed numbers; I have been canning the Liberals on hospital waiting lists; I have been canning them about the redevelopment and fast-tracking; I have been canning them about a fifth ambulance and all those sort of things. Now I am in government and I have to do something about all these problems. What am I going to do?". His bureaucrats must have rubbed their hands with some glee and said, "Well, Minister, we have lots of solutions; but, as far as you are concerned, what is the most important thing you want us to make sure does not happen again?". *(Extension of time granted)*

MADAM SPEAKER: Mr Humphries, it is only fair to let you, and the rest of the members, know that I have just received from the Clerk a notice in writing that Mrs Carnell has withdrawn notice of motion No. 5, private members' business, standing in her name. You now have, in the few minutes that are available to you, carte blanche to attack those areas. Mind you, I will see that you take note of the relevancy rule.

MR HUMPHRIES: Indeed, I certainly shall. I have to say, Madam Speaker, that the sorry tale of the Government's handling of these matters can come out at last. Bed numbers was a major issue for this Government when it was in opposition. Mr Berry referred to it repeatedly, and I shall quote some of his statements. Of course, the *Canberra Times*, as we know, was always right on these matters.

Mr Lamont: On a point of order, Madam Speaker, I raise the matter of relevance to the comments made by the Minister on World Health Day. None of these matters was canvassed at that time.

MR HUMPHRIES: Madam Speaker, he did not talk about World Health Day; he talked about the performance of the ACT public hospital and health systems.

Mr Berry: Why did we say yes?

MR HUMPHRIES: Because you always do. Madam Speaker, we heard the Minister say on 16 October 1990:

> The fact of the matter is that there will be fewer public beds available to the people of the ACT when this Government -

meaning the Alliance Government -

> is finished.

We know what is happening now, do we not, Minister? We know that under your Government there are going to be fewer public hospital beds. You said that this proved that we were a bad government. What does it say about your Government? Mr Berry, you cannot avoid the fact that, to put this in terms you would understand, there is a stench, an odour of hypocrisy, permeating the atmosphere at the moment, and it is yours, Minister.

Let us talk about waiting lists, also a preoccupation of Mr Berry's while he was in opposition. I quote him from 14 June:

> We have to provide more services if we want to slice the hospital waiting lists - and we do.

He said on 11 June:

> Reducing hospital waiting lists, dealing with problems in the ACT Ambulance Service and scrutinising the hospital redevelopment budget are the priorities of the new Minister for Health, Wayne Berry.
>
> ... ...
>
> Long hospital waiting lists were a clear indicator that the system was not providing the necessary level of service.

Did you say that or did you not say that, Minister? If he said it, and he has nodded, then he must acknowledge that his system is not providing the level of service that he expected as Minister.

Mr Berry: After what you did to it, what do you expect?

MR HUMPHRIES: No, Minister, you cannot weasel out of it. You cannot keep blaming the Alliance Government, month after month after month since we left office. The fact is that you are hoist with your own petard. All the criteria you used to judge the hospital system under the Alliance Government are now coming back to haunt you. Every one of them has come back to haunt you, and you have done worse than the Alliance in every one of these categories.

The Minister talked about fast-tracking of the hospital system in terrible terms during the time he was in opposition. To him, fast-tracking was the worst thing to happen to the system since the Black Death. What do we see when he comes into office? He has not slowed down the fast-tracking of the hospital system. It is going every bit as fast. It has probably gone a bit faster; you have accelerated it. Talk about a very fast train! We have a very fast-track hospital system. I might have started it, but you have certainly kept it going. You have shovelled the coal into the engine pretty well, Mr Berry, I can assure you.

This Minister said to his bureaucrats on that fateful day, 6 June, "For goodness' sake, what can I do about this problem?". They said to him, "What is the most important thing you want us to deal with, Mr Minister?". He said, "I really gave Humphries a hard time about the blow-out. Can you make sure that we do not

have another blow-out?". They said, "Sure. We will have to put up the waiting lists, of course; we will have to reduce bed numbers; and we cannot have that fifth ambulance you promised. But we will make sure that you do not have another hospital budget blow-out". He said, "Thank you, thank you". Of course, he was disappointed. He has had that.

We really do not have much to go on here that in any way justifies this statement by the Minister:

> Under Labor, unprecedented progress has been made in the development and upgrading of the Territory's public hospital system.

Madam Speaker, I have to say that, if you believe that things really are better under this Minister, I have a harbour bridge to sell you.

MS SZUTY (3.42): I also would like to address some of the issues that were raised in the ministerial paper on World Health Day. I believe that the Government is to be commended for its commitment to the concept of providing preventative health care for ACT residents, as well as providing the highest quality public hospital services for the community.

Prior to the election the Michael Moore Independent Group, as part of its health policy, made the following statements:

> All people are entitled to the highest quality health care.

And:

> Preventative community care makes economic sense.

It is obvious that the more people take responsibility for their health care the less stress will be placed on expensive hospital treatment in the longer term. The introduction of the birthing centre is a positive step in providing options for women. The operations of the birthing centre should be monitored against need and expanded to meet demand when the need arises.

I remain concerned, however, about current hospital waiting lists and the plight of ACT residents who are unable to receive treatment when it is needed. I urge the ACT Government to place the needs of patients in the hospital system first and the needs of the administration second. The Commonwealth Grants Commission has recently drawn the attention of the ACT Government to above State average expenditure in health and has identified as a major area of concern the level of administration in the health system.

If the ACT Labor Government wants to demonstrate to the ACT community that it truly wants to improve the care of patients in the hospital system, it can concurrently look at levels of administration in health and actively seek to reduce them. I understand that there have been efficiencies, as outlined in the annual report of the Board of Health, towards the 30 per cent reduction in staff in corporate services. I accept that the Government has looked at this area but would urge that further emphasis be put on service delivery.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (3.44), in reply: One of the things that have become so typical of Liberals is the way they feast on the emotions of the community with quite inaccurate information. One of the things I have always prided myself on is giving an accurate assessment of what is going on. Gary Humphries raised the issue of my silence in the lead-up to his budget blow-out. There is no point in beating up a storm if you do not have the information.

Mr Humphries: You should have asked the question.

MR BERRY: I did ask the question and the Minister did not know. I said, "Minister, what is going on in your health system? Have you problems with your budget?". He said, "I do not really know". I said, "Well, how about devoting some resources to it?". He said, "I am not going to spend any money on finding out what is wrong. Heavens, I would not want to know if there is anything wrong". Mr Kaine did not know what was going on.

Let us get to the bottom of this. The real issue about health finance is that it was out of control. There is no question about it: The overrun or the blow-out, or whatever you want to call it, which occurred under Labor in 1989 was a matter of concern, but it ought to have been fixed by the time it became a political issue for the Alliance Government.

Mr Humphries: You did not ask what we had done about it, did you? What did you ask about it?

MR BERRY: You have had your chance. The Alliance Government clearly was not in control. The situation has now turned around. Labor is in control. There is no unapproved spending, such as occurred under the Alliance Government. There is open access to information in relation to finances, which has never been the case in the past. The Liberals, typically, are trying to tip a bucket on anybody who is doing well.

Listen to some of the statements, and these come, I suspect, from Mrs Carnell: "The Government was trying to disguise a substantial blow-out". What a stupid statement! Every detail of the figures was provided. "The agreed supplementation column, which was new to the reports format, appeared to be a ploy to make the budget look like it balanced". What a silly statement! "Kate Carnell criticises the secrecy and lack of information available on a regular basis from the Minister". No other Liberal health spokesperson has got more information on a month by month basis about health finances across Australia, I suspect.

Mr Humphries: We need it more here than they do anywhere else.

MR BERRY: Of course you need some more. I need some more to clean up the mess you left. Do you remember the possums? It goes on: "The areas in which Gary's budget blew out are the same areas which Mr Berry calls supplementation". That is completely wrong. There was $6m unauthorised, unapproved expenditure. It is 11 by six. The *Canberra Times* said that there was a $17m blow-out. There was $6m of unapproved expenditure. Squirm all you like; those are just a few facts.

There has been a bit of feasting on the emotions in response to this important statement about the way we deliver health. Labor is about delivering a strong public health system with access to the community. We will rebuild the hospital system, and we will restore it from the damage you did, Mr Humphries.

Mr Humphries: It is a shambles, Wayne. Morale is low, people are missing out on hospital services.

MADAM SPEAKER: Order! Please let Mr Berry continue, Mr Humphries.

MR BERRY: The situation in which the hospitals found themselves was a direct result of the inaction of the former Minister; there is no question about that. For the Opposition spokesperson now to try to feed on the emotions of the community and to forget recent history is an absolute joke. We really have to question the judgment of people who would take those sorts of actions.

A little while ago we heard from Mrs Carnell some discussion about cardio-thoracic surgery. She talked about 300 people requiring - - -

Mrs Carnell: I quoted you from the *Canberra Times*.

MR BERRY: I heard you talk about 300. You do not think it is 300 any more?

Mrs Carnell: No, I quoted you; that is what I said.

MR BERRY: You do not believe that it is 300 any more?

Mrs Carnell: I believe you. It must be true; it is in the *Canberra Times*.

MR BERRY: So, we have changed our tune. We do not know how many it is. The popular figure late last year was about 300 people. I raised questions about the reliability of figures, and rightly so. That was another legacy that was left to Labor to tidy up. The accuracy of figures had to be questioned at all times. We have done a little work in relation to that and we have discovered that 196 patients from the ACT underwent cardio-thoracic procedures in Sydney in 1989-90.

Mrs Carnell: Were you wrong when you said 300?

MR BERRY: No, I always said that the figures were so far out of step with the previous year's that they really could not be said to be a fair indicator. The previous year was about 140 and then the number jumped to 300. Why did it jump? Having checked the figures and gone to the trouble of inquiring interstate and doing all those sorts of things, we have found that there were about 196 people - we do not get all our exercise from jumping to conclusions - and 116 of these had open heart surgery.

All these figures have to be authenticated. Any change to the way we deliver procedures in the Australian Capital Territory has to be carefully planned, and that is what the board is doing. We have said that there is provision within the new diagnostic and treatment block to fit further advancements in cardio-thoracic surgery; there is no question about that. The planning for those advancements will continue, but it will be done on the basis of close scrutiny of the figures and a clear understanding of what we are likely to expect. As I have always said, there will be no approval for new procedures unless they are first class procedures.

Mrs Carnell feasted on a comparison between pregnancy termination and cardio-thoracic surgery. I would have thought she was more professional than that; that she would know the difference between a pregnancy termination and cardio-thoracic surgery. Does she say that 1,100 to 1,500 women should continue to be forced to go to Sydney for a relatively minor procedure and that ought to be compared with cardio-thoracic surgery? They are just chalk and cheese. It is a silly notion. When somebody with a professional background in health says such a silly thing, it makes me wonder whether these people have their feet on the ground. They are about this far off. They really do not know where they are.

The provision of health services in the ACT is a difficult one, and I think Labor is doing well to have achieved so much in such a short time, given the excesses of the Liberal Party. As I have always said, if you cannot manage the dollars you cannot manage anything, and we have been able to demonstrate that there is a change in the way we manage finances in the hospital system. I am not confident that we are out of the woods yet. We have to do some more work, I am sure. At any rate, we have done far better than has been done in the past, and it all looks promising for that side of health management in the ACT.

It is true that waiting lists have grown in the ACT. There is no question about that. I have never hidden it; I have nothing to hide. Waiting lists blew out under the Alliance Government, and circumstances were created by the Alliance Government which could not be turned around immediately. There is no question about that; they cannot be turned around immediately.

Under Labor, we have reduced costs in our hospital system and we have increased performance. That is something the Liberals have never been able to do, and we have done it in difficult circumstances. We are also in a position where we have to recover ground that was not lost but thrown away by inactivity on the part of the former Minister.

Ms Follett: And inexperience.

MR BERRY: Inexperience comes into it as well. There has been less human cost than would have been the case under the former Minister because we have increased our performance. Be serious about this. The hospital system is performing better. In Labor we have a team of people who are committed to a strong public hospital system, compared to a team of people in the Liberals who are compelled from their innermost parts to sell it all off.

Question resolved in the affirmative.

POWERS OF ATTORNEY (AMENDMENT) BILL 1992

Debate resumed from 9 April 1992, on motion by **Mr Connolly**:

> That this Bill be agreed to in principle.

MR HUMPHRIES (3.54): This Bill builds on the Powers of Attorney Act passed in 1989, and I indicate that the Liberal Party will support these amendments. They are, I believe, designed to strengthen the operation of that important Act, which was passed three years ago, and will build on the understanding that

ordinary citizens can have about their power to delegate, as it were, their basic life decisions, their responsibilities during periods of crisis or periods of absence overseas or whatever, to people who can make those decisions for them. The extensions that are occurring in this Bill are an appropriate way of building on the obvious success of that earlier Act.

The schedule to the Bill sets out two new forms - a general power of attorney and an enduring power of attorney. A general power of attorney is meant to be the sort of document that one completes and executes before going overseas, for example, to provide for someone to act in one's absence. The enduring power of attorney was the subject of the first Powers of Attorney Act, which gave a person the power to create an enduring power of attorney during a period of incapacity such as mental illness or in the face of a serious operation or something of that kind. The clear and simple format set out in this Bill ensures that both those powers are easily understood.

I have brought in today a copy of a power of attorney which I drew up for a friend while I was acting as a solicitor. It is a very large document of four pages, small type, extremely complicated, very detailed, full of words that would be very difficult for people to understand if they were not trained as lawyers. The contrast between that document and the ones which appear in the schedule to this Bill is very welcome.

The Scrutiny of Bills Committee addressed a couple of matters when it was examining this Bill. There is only one I want to raise in the context of this debate. Proposed new section 3AD(2) in effect says that section 3AA of the principal Act - that is the section creating the new form 1 - as amended by this Act shall be deemed to have commenced on 24 December 1956. I have not checked, but I assume that that reflects a similar deeming provision that applied to form 2 in the schedule to the first Act. In any case, even if it does not, we have to be aware that we are creating here, it seems to me, a very extensive degree of retrospectivity for the operation of this Bill.

This Bill, when it becomes an Act, will in effect change the status of documents that might have been executed up to 36 years ago. A person who might have created a particular document 35 years ago that was not a valid power of attorney would now have in his possession, or in the possession of someone to whom he has given this power, a valid power of attorney. That is obviously pretty unlikely; it is not likely that many people would have done that 35 years ago and still have it current. But we are looking at a very large degree of retrospectivity in this provision, and it is a matter of some slight concern.

On balance, although it may occasion loss to some people - those people who would have benefited from a failed power of attorney, for example, will lose out from this - that loss is probably to be expected and to be countenanced by the law because we are not in the business of creating benefits for those sorts of people. So, although my party has had a lot to say about retrospectivity in the past, on this occasion we are not going to oppose the Bill because of that level of retrospectivity.

There are a few other tidying up provisions in the Bill that are certainly worthwhile. For example, it makes it clear to trustee companies particularly, and perhaps to lawyers, that the failure of the power of attorney to be signed, sealed and delivered in a formal sense is not a bar to its being considered a proper deed.

That is a tidying up provision which I hope will clear up any problems that might exist at this time with respect to the Bill. I think this is a worthwhile piece of legislation. It builds on the success of our earlier Act, and I commend it to the Assembly.

MS SZUTY (4.00): I welcome the initiative undertaken by the Attorney-General and am pleased that these matters are being clarified. However, I would like to see some mechanism for monitoring of the use of powers of attorney as, from a lay person's point of view, I can see the scope for abuse of the privilege of being made a donee. The Attorney-General may wish to outline the checks and safeguards which would stop someone from unfairly taking advantage of, say, an elderly person or someone from a non-English speaking background.

I foreshadow that I will move an amendment to further spell out the wording of the witnessing of the document. While it is accepted that most people would see witnessing as something that happens "in the presence of", the intent is to make the form as user friendly as possible. I submit that my amendment takes any ambiguity out of the paragraph, for the benefit of those who would not be used to signing legal and quasi-legal documents.

MS ELLIS (4.01): Madam Speaker, this amendment Bill makes some significant improvements to the law relating to powers of attorney in the ACT that is contained in the principal Act, the Powers of Attorney Act 1956. This Bill was introduced and set down for debate in November 1991, but unfortunately did not come on due to the intervention of other matters on the last sitting day. The Bill presently before us is unchanged, except for its year.

The first Follett Government introduced reform in this area in October 1989 with the Powers of Attorney (Amendment) Act 1989, which introduced an enduring power of attorney to the Territory. This reform overcame a problem in the existing law which meant that ordinary powers of attorney lapsed when a donor or the person conferring the power became incapacitated. An enduring power of attorney may operate when a donor is incapacitated by stroke, trauma or senility and is no longer capable of rational decision making. These are the circumstances when a person may plan in advance that his affairs be handed over to a person he trusts. It is also possible for a donor to activate the power so that it operates immediately or from a specified date, such as the day before he or she undergoes major surgery.

Members will find an example of an enduring power of attorney as form 2 in the schedule to the Bill. It is in plain English and is accompanied by explanatory notes. This reform has been well received by the community and by the legal profession. I might here acknowledge the assistance of the Law Society of the ACT.

The amendment Bill before us today does a number of things to add to and improve the law from the 1989 reforms. The most important aspect of the Bill is that it confirms that the enduring power of attorney may operate as a deed. This is a fairly technical issue; but it is important, in my view, that it be explained because of the disruption to users in the community which could be caused if there were a reluctance to accept the effectiveness of enduring powers of attorney executed in the form provided by the Act.

Hundreds of years ago in England it became established that certain legal transactions had to be effected by deed, and we have inherited that law. Perhaps the two main surviving examples of this are dealings in real property or land and powers of attorney. For a document to be a deed it has to satisfy a number of technical and formal criteria. For example, it must be signed, sealed and delivered; it must be on parchment or paper; the person making the deed must have legal capacity; and so on. In modern times these requirements have been largely removed by statute and are largely taken to have been satisfied when a person signs a document and attests it before a witness. The New South Wales Conveyancing Act has provided to this effect since 1920, and that law applies in the ACT.

Some financial institutions in the ACT have taken the view that the enduring power of attorney form is not effective because it is not in deed form. Briefly, their reasoning seems to be that because the power may authorise a donee to transact in real property, which must be done by deed, the power itself should also be in deed form. Some institutions have therefore refused to accept the plain English enduring power of attorney form. The Government's legal advisers reject that interpretation and the Government finds it regrettable that any inconvenience could be caused to persons in the ACT arising from it.

The 1989 Powers of Attorney (Amendment) Act provided that an enduring power of attorney could be executed in the plain English form. The legislation made that the law, and that should have been the end of the matter. However, the Government takes the view that it is desirable to end any uncertainty in unmistakable terms. This Bill will do that by expressly providing that powers of attorney executed in accordance with the Act will operate as a deed, including the forms already executed in good faith, irrespective of whether they are strictly in deed form.

A new initiative achieved by this Bill is an improvement to fill a need that has become apparent since the introduction of the enduring power form in 1989. We have now included as form 1 in the schedule a standard ordinary power of attorney form. After the introduction of the enduring power, inquiries and requests to the Minister and to the Department of Justice and Community Services revealed that there was a demand for a plain English ordinary power of attorney form as a model easily available to the public.

The form we have adopted as form 1 in the schedule to the Bill is consistent with the New South Wales form. It will enable the public to distinguish clearly between the enduring power and the ordinary power of attorney. An ordinary power, of course, might be used for quite specific or temporary purposes, such as when a person or family go overseas and wish someone to handle property or other transactions while they are away.

This Bill also makes a range of other relatively minor and technical improvements. New section 13A will assist attorneys by reducing the complexity of evidence in proceedings when medical evidence is needed of a donor's incapacity. The forms have been improved with a reminder near the signature block that witnesses must not be related to the donor or donee of a power.

This Bill is an example of a careful and orderly legislative process which does not usually get much fanfare. What we have in this Bill is the result of an orderly review of the 1989 reforms and an improvement of the package as a result of feedback from the community and the profession. The Government intends that its legislative program will continue in this manner. I have no reservations in urging members to support the useful and sensible modification of the law achieved by this Bill.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.07), in reply: I thank all members for their support for this reform. As is apparent, the basic purpose of this Bill is to put beyond doubt a very sensible reform that was carried through under the first Government in the First Assembly. It is one of those cases, which are not uncommon in Australian history, where parliaments have stated reforms and the lawyers and the courts have got to them and frustrated those reforms and parliaments have had to restate their will.

We have not yet got to a point here where one of the simplified power of attorney forms has been struck down by a court, but we have reached a point where a number of financial institutions have received legal advice to the effect that the simplified form the First Assembly approved would be struck down by a court, or could fall foul. Mr Humphries in his remarks recalled the very complex documents that he had been called upon to produce when in practice. People who have not been involved in legal practice may not fully comprehend that, but lawyers have a passion for complexity and these documents were often totally incomprehensible to the lay person and very complex.

The positive reform was to simplify those documents. Legal doubts were raised, and so it is appropriate that the Assembly should put beyond doubt that these simple form documents are valid. It is for that reason, of course, that we have retrospectivity. It is somewhat extraordinary when a parliament anywhere in Australia in 1992 talks of retrospectivity to a date in 1956. The reason for that is that 1956 was the commencement date of the head Act, and the purpose all along has been to make it clear beyond doubt.

Mr Humphries is correct in raising the concern about retrospectivity. It is a concern the Government shares; but we think he would agree that, on balance, this is an appropriate case where retrospectivity ought be permitted. The Scrutiny of Bills Committee and the Opposition are quite right in raising that matter for the concern of the Assembly.

Ms Szuty in her remarks made two points, one of which related to an amendment she is proposing to move, which is an amendment only to the schedule, to put an additional flag on the form to alert persons using this simple form to some legal technicalities they may be required to comply with. It is noteworthy, as Ms Ellis has said, that already we put some flags on the form to allow the lay person who is unfamiliar with legal technicalities and legal practice to fill in the simple form correctly.

What Ms Szuty is proposing is that, where the Act requires the form to be witnessed and attested, the witnesses should be present at the time when the donor signs the power. Any lawyer would understand that a witnessing clause or attestation clause must be done at the same time. You can witness a signature only when you are present when the signature is executed. That is something you would expect lawyers to know because they have been trained in it; it is not

something you would expect an ordinary member of the community to understand. So, it is sensible to say that we should flag that on the standard form. The whole purpose of this exercise is to have standard forms so that legal documents, documents which have a significant legal effect, can be readily understood by the community and executed by members of the community without the need for expensive legal advice.

Ms Szuty also raised a concern about the possibility of abuse, pointing out that a person may, in effect, perpetrate a fraud by getting a power of attorney executed by someone who is unable to comprehend what he is doing. In the original amending legislation, the 1989 Act, which provided the substantial overhaul of the 1956 Act, a new section 3A was inserted which said that the only reason it is invalid is if the person was unable to understand the effect of what he was doing. So, you can always go to a court and look at that.

I would also note that we have created the Guardianship and Management of Property Tribunal and the Community Advocate, both of which are empowered to take a broad-ranging interest in persons under an incapacity. So, if there were any reason to suspect that there had been foul play, there would be a couple of avenues. You could go through the Guardianship Tribunal to get a move against the property or you could go to the Supreme Court and exert an action under section 3A. Clearly, we are guarding against fraud or abuse. The Government will be supporting the foreshadowed amendment.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MS SZUTY (4.12): I move:

> Schedule 2 - Form 2, page 7, in the section headed "PLEASE NOTE:", insert "who are present at the time the donor signs the Power of Attorney and" after "2 persons".

I thank the Attorney-General for his support of the amendment. As it stands, the schedule does imply that signatures must be witnessed and dated by two persons who are not related to the donor or attorneys. However, it is not necessarily clear that all signatures must actually be signed in the presence of these witnesses. An amendment to the effect that the signing must actually occur in the presence of two witnesses is therefore desirable for the lay person who will be using the schedule to confer power of attorney.

MR HUMPHRIES (4.13): We support the amendment. It makes clear what requirements fall on a person witnessing a document of this kind. In fact, I am surprised that it was not there in the first place. It seems to me that that is a matter which is important to include. A number of wills, in my experience, have failed because of the failure of the two witnesses to be present at the same time that the person who is signing the document is present and signing his own name. So, this is an important requirement to be included in that form.

Amendment agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

CRIMES LEGISLATION (STATUS AND CITATION) BILL 1992

Debate resumed from 9 April 1992, on motion by **Mr Connolly**:

> That this Bill be agreed to in principle.

MR HUMPHRIES (4.15): Madam Speaker, the object of this Bill is to change, in effect, the way in which we refer to an Act that is very commonly referred to in courts in the ACT because it is an important Act, that is, the Crimes Act 1900 of the State of New South Wales in its application to the Territory. We have a very long title, as is clear, and it is a very complex matter.

What the Government is trying to do is to remove that complex nomenclature from courts and documents and replace it with a simpler reference, that is, to the Crimes Act 1900. I might say that the Bill does not clearly say whether one can refer to this as the Crimes Act 1900 (ACT). That is not necessary, perhaps; but one might ask that question if one ever had to refer to it in a context where one was referring to other Crimes Acts, for example, the Crimes Act (Commonwealth) or the Crimes Act (New South Wales). I think we can probably assume that we are entitled to put "ACT" behind 1900.

The Government is pursuing the question of removing archaic references in legislation with all the vigour of Red Guards smashing up Shinto temples during the Cultural Revolution or bulldozer drivers knocking down hotels in National Party-governed Queensland a few years ago. Perhaps one cannot be as sympathetic towards the long title of the Crimes Act as one is towards those other things. But it does bring to mind the observation that one's heritage is not merely about buildings and objects; it is also about things such as the laws. In this case, the laws include a very important law that has been in force in the Territory since virtually the beginning of the ACT, and that is the Crimes Act of New South Wales in its application to the Australian Capital Territory.

It is a pity, it seems to me, that it has to be redesignated in this way. It does remove the fact that the Crimes Act had its birth in New South Wales and has substantially had that influence from the New South Wales law ever since. It is true that the Crimes Act is now quite substantially different from its New South Wales counterpart. Both have been going on separate paths and developing quite separately in that time. Nonetheless, that is only an observation I make. Those arguments are purely emotional and not logical, and therefore I can only say that the Opposition will support the Government's Bill.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.18), in reply: I thank Mr Humphries for his support. I was getting a little concerned when he was accusing the Government of carrying on like Red Guards smashing Shinto temples. I was finding it hard to see the relevance to this particular piece of law

reform. But when he spoke of the commitment to the past and attachment to heritage, I thought, "There speaks a true Burkean conservative: One should never change; one should always hold things as they are".

What Mr Humphries says about the mouthful is right. In its current form, this is a very complex law to cite. We are doing two things: Making it easier for persons to refer to this law; and also reflecting the fact that it no longer is the New South Wales Act in its application. It really is an Act that over the years has been moulded to suit the particular needs of this Territory - originally by the Commonwealth pursuant to ordinances under the Seat of Government Act, but more recently by this Assembly. The First Assembly amended this Act on a number of occasions. We had this morning in private members' business a debate initiated by Mr Humphries. The Government will be progressively bringing forward reforms to the criminal law. It no longer is true to speak of this as a New South Wales Act that just applies to the Territory. It is a Territory Act and it should be cited accordingly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

CRIMINAL INJURIES COMPENSATION (AMENDMENT) BILL 1992

Debate resumed from 9 April 1992, on motion by **Mr Connolly**:

> That this Bill be agreed to in principle.

MR HUMPHRIES (4.20): Madam Speaker, this Bill is about clearing up some confusion that occurred following earlier amendments to the Criminal Injuries Compensation Act arising out of the change of nomenclature in the Supreme and Magistrates Courts. The abolition of the title "Clerk", I think, was the one in issue at the time. I could wax lyrical about the romantic attachment to the word "clerk" - it is a very old English word - but I will not. This is a straightforward and necessary piece of legislation, and the Liberals support it.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.21), in reply: That was an eminently sensible and short speech from Mr Humphries which will be responded to shortly by the Government. The Bill does do exactly as he said. It clears up some questions of nomenclature. There was some confusion when we changed the name of the Clerk to "the Registrar".

We had some further confusion today when Ms Szuty's eagle eye compared the amendments circulated with the current print of the Criminal Injuries Compensation Act. She noted that if clause 10(4), as amended, went through as amended it would seem to make no sense. I was most alarmed when I first saw that, because she was indeed right, comparing the amended clause with the print.

In fact, there had been an amendment to the current print that members have before them - the 31 May print of the Criminal Injuries Compensation Act - in Act No. 44 of 1991 which had led to the absurdity of a section referring to "the Registrar or the Registrar". That obviously made no sense, and the purpose of this Bill is to change it so that it will read "the Registrar of the Supreme Court or the Magistrates Court", which makes it quite clear that we are talking about the Registrar of either court. I congratulate Ms Szuty on picking up what appeared to be a technical error but in fact was not so.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ADJOURNMENT

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

> That the Assembly do now adjourn.

Valley View Newspaper

MR DE DOMENICO (4.23): I would like to talk about the *Valley View* newspaper. In Tuggeranong there is a newspaper called the *Valley View*. It is published once a week, on Tuesdays, and distributed to more than 40,000 homes in the Tuggeranong, Woden and Weston Creek areas. The newspaper is a freebie and so, from economic necessity, must carry more than 60 per cent advertising content. Despite these conditions, the newspaper's employees produce a paper of substantial quality in both appearance and content. It is usually well laid out, with good photographs, and a team of three journalists ensure good local coverage.

The *Valley View* is a very interesting newspaper because it is one of the few remaining independently owned newspapers in Australia. It is both independent and fiercely local, as Ms Ellis will confirm. It employs 20 full-time and more than 100 part-time employees.

Mr Lamont: Can you start again? The *Valley View* reporter has just turned up.

MR DE DOMENICO: A very intelligent reporter. Beware any unwary politician - of any political persuasion, by the way - who wanders into Tuggeranong country with false promises, silly ideas or pretentious paraphernalia.

The *Valley View* sees its role as the sole crusader for Tuggeranong's often maligned community, and politicians have learned, often painfully, to take this newspaper seriously. For instance, we were all audience to Mr Connolly's capers over the Calwell crossing, and he is rough in this house when the

Valley View quite rightly uses its front page to question Mr Connolly over the matter. It is interesting, and pleasing, to see that Mr Connolly is now taking residents' concerns over the school crossing seriously, having called a public meeting.

We all, I believe, have a debt to the *Valley View* for its unfailing dedication and fearlessness in crusading for the Tuggeranong community. The *Valley View*, I believe, has played an important part in unifying the Tuggeranong community, in giving it a community voice and identity. In return, the *Valley View* over the past five years has grown and profited. In return for its fierce support of Tuggeranong, there are loyal businesses that have also grown and profited through their advertising in and support of the *Valley View*.

It has been a win-win relationship - pardon the pun - for the newspaper, local businesses and the community. But small local businesses in Tuggeranong are not fools. They do not support the *Valley View* solely for gooey reasons of sentimental loyalty. It makes good business sense to advertise in the *Valley View*. In December 1991 the *Valley View* employed not ACIL but Ken Bennett - I am sure that people on the other side of the house know who Ken Bennett is - a consultant, to survey and analyse readership.

The results were astounding, showing that the *Valley View* is read in 92 per cent of homes in the circulation area. There are more than 100,000 people in the *Valley View* circulation area, 71,000 of those people in Tuggeranong, and about 40,000 homes. That is impressive in anyone's terms. In Australia there is only one other suburban newspaper with as high a level of readership. Despite this, the *Valley View* is an ordinary business, working like any other business to make ends meet, and things are far from easy. The newspaper has been through some tough times and narrow escapes, but has survived; and, knowing the pugnacious tenacity of the managing editor, Mr Martin, who is well known to all of us in here, I am sure that it will continue to survive.

Having put you in the picture, Madam Speaker - or should that be "put you in the newspaper"? - in respect of the *Valley View*, I would like to tell you about a few incidents which I find disturbing. The first is the refusal of the Government-run leisure centre in Erindale to accept an offer by the *Valley View* to publish, free, information about sporting and community programs. Why will the Government leisure centre not use free advertising in the *Valley View*? I do not know.

The second issue is about government advertising. Recently the *Valley View* raised this matter with the Environment Minister, Mr Wood. Again, the *Valley View* stressed that it was more than happy to publish community information free of charge. The Minister has undertaken to make sure in this instance that his department is advised to provide the *Valley View* with any information of this nature. However, as recently as yesterday the *Valley View* informed me that the information is not being sent through - such information, for example, as road closures in Tuggeranong and other areas.

As far as paid advertising is concerned, the *Valley View* misses out. Let me stress that the *Valley View* does not really need the Government's advertising dollars these days; it is doing okay. It is the principle of the matter that counts. The Minister explained it to Mr Martin like this:

> The Department uses a tendering process to determine the cheapest rates for their advertising needs. The *Chronicle* offers a cheaper rate and therefore is used.

That sounds fine, sounds reasonable, except for a number of points. If the department uses a tendering process, why was the *Valley View* not invited to tender? Without a tender, how can the department determine that the *Chronicle* rates are cheaper? In view of the phenomenal readership figures the *Valley View* achieves, was cost-effectiveness considered?

Finally, it strikes me as strange that, if the Government is, as it should be, concerned with reducing costs, it is refusing to accept the *Valley View* offer of free publication for the leisure centre. Instead, the Government is paying for advertising in the *Chronicle*.

The other issue is that the Government has the mentality that Canberra is still a one-horse, or a one-newspaper, town.

MADAM SPEAKER: Mr De Domenico, your time has expired. We will pick up that other issue at another time.

West Belconnen Rugby League Club

MR LAMONT (4.28): I hope to stay at least three centimetres further off the ground about this next matter than the previous speaker did on his. Madam Speaker, all members of the Assembly would be aware that over the past couple of weeks I have approached them about becoming involved in a fundraising event for a well-known person in the Belconnen Valley, in particular by way of each member providing a $1 cash cheque to be auctioned at a function to be held on Tuesday, 26 May. I rise this afternoon to inform all Assembly members and those members of the public here assembled that that is the evening for the fundraising event, which will take place at the West Belconnen Rugby League Club.

This event is being held following failure by a medical insurance company to provide medical insurance for Ian Henry, a past president of the West Belconnen Rugby League Club, who was required to undergo a five-way bypass operation in Honolulu when visiting his daughter. The cost in Australian dollars of that five-way bypass operation amounted to $70,000 for hospital services alone.

What has happened is that the international insurer has said, "No, we will not cover this cost because it was a pre-existing condition", despite the clean bill of health Mr Henry had before he left Australia. Medibank Private in Australia said, "We changed our rules some time ago and you no longer qualify under our guidelines either". This means that, for the hospital and the operation alone, he is out of pocket by $70,000. I understand that the medical practitioner's expenses will come in on top of that.

His mates in the Belconnen Valley, particularly those associated with junior rugby league, have undertaken to seek legal redress against Medibank Private. That has not yet come to pass; but, even if it does, it will cover only a small fraction of the total cost. Mr Henry has given up a substantial part of his time to

promote the interests of members of the West Belconnen Rugby League Club and, indeed, junior sport in Belconnen. It is for that reason that I believe that this a matter all members of the Assembly on a tripartisan basis should support. I would encourage my colleagues from the Labor Party, our colleagues from the Liberal Party and the Independents to attend the function on Tuesday, 26 May. I will confirm, prior to the end of next week, that that is the date. Give generously for this very worthwhile fundraising event.

Bosnia-Herzegovina

MRS GRASSBY (4.31): Madam Speaker, I rise to speak on behalf of some members of our community who called to see me last week to protest at the conditions their families and friends are suffering back in the land they came from - Bosnia-Herzegovina. With them came members of the Australian Croatian community to support them. They told me some horrific tales of what was happening to their communities back there.

We all know that in wars everybody suffers, no matter who starts them or who is fighting. Although our Minister for Foreign Affairs and Trade had recognised their community, they felt that we should in some way be looking to the UN to put troops into the area to stop the fighting completely. They were not saying that their people were not also killing, but they said that it was to keep the area they had for their community. They did not mind what religious group lived in their community, as long as they lived in peace. We all know that Yugoslavia has suffered very much from wars because there are so many groups living there.

I felt very sorry for this community. I feel sorry for any community living here whose homeland is suffering wars and who do not know whether their families are alive or dead, whether they be Croatians, Bosnia-Herzegovinians, Serbs, or whatever. We should feel sorry for these people, and I intend to get an appointment with the Minister for Foreign Affairs to enable these people to put their case.

I think we, as a group, could write to the Minister for Foreign Affairs. We are sending UN troops to many parts of the world to try to keep the peace. Maybe we should be looking at that in regard to Bosnia-Herzegovina. We all know that the Croatian community is 10,000 strong. I do not mean that we should support them only because they are 10,000 strong; we should be supporting all members of our community, no matter where they have come from, to ensure that they, their families and their friends can live in peace.

I ask members of the Assembly to support these people by asking our Federal Government to push the UN to recognise these countries that have broken apart and intend to become their own masters. We should be looking at ways of using UN troops to bring peace in these countries - not to fight wars, not to kill people, but to bring peace, as we have done very successfully in Cyprus and other places around the world. I am quite sure that we could do this in what was known as Yugoslavia, which has been split up into many countries who wish to govern themselves in peace in the future but who will need help from us.

Valley View Newspaper

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.35): Madam Speaker, I want to comment on some of the remarks by Mr De Domenico about the *Valley View*. I do not live in Tuggeranong; but, by whatever means, the newspaper arrives in my in-tray on Tuesday or Wednesday of each week and I enjoy reading it. I am sure Mr Connolly does, too, from time to time. Mr De Domenico made two comments about the newspaper that would place it high in my respect - that it is independently owned and that it is local. I would certainly do everything I could to encourage a newspaper of that sort. I will not go down the path of discussing media ownership in Australia or the ACT. I believe that there is something of a campaign out there - this is the way that large newspapers work - for one newspaper to undercut the other, and I have no doubt that the *Valley View* is feeling some pressure.

Mr De Domenico said that the leisure centre at Erindale had not taken up the offer to provide information about its programs that would be published free of charge. I have indicated on at least one occasion and perhaps twice that the message could go to the department that that offer was there and they might accept it. That has not been done. I do not know why that is, and I am not sure that it is my job as Minister to do any more than I have done.

Mr De Domenico: No, and I have said that.

MR WOOD: Yes. In relation to paid advertising, that is another matter again. Mr De Domenico would be the first to stand up and criticise my department if it advertised in a newspaper at a rate higher than was available elsewhere. I do not know by what means the department assesses the prices from the newspapers for advertising. I am not sure that I should know, because it can be a quite contentious area. I certainly do not direct the department as to where it should advertise; but I do say, "Get the cheapest advertising you can for a good coverage".

I can say no more than that. I do not know how the department goes about assessing the prices - whether it is a phone call to ask what the advertising rates are this week, this month, or whatever, or whether a tender is invited. I will certainly raise the matter with the department to see that it continues to get the best possible coverage at the best possible cost. I am happy to be seen to be absolutely even-handed to the *Valley View*, and to the *Canberra Chronicle* and the *Canberra Times*, the newspapers that circulate in that area. Above all - I am sure that Ms Ellis would agree with me - we must do the best we can for the people in Tuggeranong.

Valley Dragons Supporters Appeal

MS ELLIS (4.38): Madam Speaker, I rise to outline very briefly to members my intention this evening to attend a special fundraising dinner being held at the Tuggeranong Valley Rugby Union Club. It is being put together by the Valley Dragons Supporters Appeal Group. Members may recall the tragic accident in the suburb of Banks last month, when two children were killed. The eldest child, the boy, was a member of the junior sporting club there, the Dragons, and friends of the family who are on the Dragons committee thought it might be a good thing for the family if an amount of money were raised to show the compassion of the community.

At the dinner tonight there will be an auction to raise money. I will be going along as an MLA from Tuggeranong, but also representing the Government. Mr Connolly has kindly arranged, in conjunction with the Raiders, to donate a pair of new Raiders numberplates, No. 141, for inclusion in the auction. I look forward to reporting back to the Assembly at a later date on the success of the fundraising and on the projects that I believe the committee has in mind to assist not only the family but also the young people in the community in Tuggeranong.

Question resolved in the affirmative.

Assembly adjourned at 4.40 pm