



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

11 August 1992

Tuesday, 11 August 1992

Petitions:

X-rated material pornography and violence	1405
Circus animals	1406
Abortion clinic	1406
Circus animals	1406
Circus animals	1407

Papers	1407
--------------	------

Questions without notice:

Land tax	1408
Building industry standards	1409
Sutton Park Driver Training Complex	1410
Land tax	1410
Podiatry services	1412
Land tax	1413
Woden Valley Hospital - adolescents ward	1414
Land tax	1415
Investigations Unit	1416
Better cities program	1416

Audit Act - statements of variation to the Appropriation Act 1991-92

and Minister's Advance	1417
------------------------------	------

Subordinate legislation and commencement provisions	1419
---	------

Legislation program - budget sittings 1992	1422
--	------

Land tax legislation (Matter of public importance)	1422
--	------

Administration and Procedures - standing committee	1441
--	------

Planning Development and Infrastructure - standing committee	1441
--	------

Planning Development and Infrastructure - standing committee	1445
--	------

Land (Planning and Environment) Act - variations to the Territory Plan	1446
--	------

Estimates - select committee	1446
------------------------------------	------

Animal Welfare Bill 1992	1448
--------------------------------	------

Adjournment	1494
-------------------	------

Answers to questions:

Government schools - Year 10 school leavers (Question No 12)	1495
--	------

Finniss Crescent respite care facility (Question No 89)	1496
---	------

Government schools - planning (Question No 95)	1500
--	------

Drugs - needle exchange program (Question No 123)	1502
---	------

Dental services (Question No 124)	1503
---	------

Home-based palliative care program (Question No 125)	1504
--	------

Attorney-General's Department - micro-economic reforms and budget and staffing targets (Question No 130)	1505
---	------

Woden Valley Hospital - opening of psychiatry unit (Question No 134)	1508
--	------

Public hospitals - occupied-bed-day statistics (Question No 142)	1509
--	------

Minister for Health - interstate visits (Question No 157)	1510
---	------

Nursing home waiting lists (Question No 177)	1511
--	------

Gun licences (Question No 179)	1512
--------------------------------------	------

Scoliosis screening (Question No 180)	1514
---	------

Tourism Commission (Question No 183)	1515
Special education - pilot integration program (Question No 185)	1517
Garran Primary School - playground upgrading (Question No 186)	1520
Board of Senior Secondary Studies (Question No 191)	1521
TAFE colleges - enrolment statistics (Question No 196)	1523
Urban Services contracts (Question No 197)	1524
School management accounts - receipts and disbursements (Question No 199)	1525
Non-government school funding (Question No 200)	1528
TAFE colleges - students repeating Year 12 (Question No 201)	1529
Cultural Council subcommittees (Question No 205)	1530
Housing consultations - venues (Question No 209)	1531
Education budget - reduction in staff	1532

Tuesday, 11 August 1992

MADAM SPEAKER (Ms McRae) took the chair at 2.30 pm and read the prayer.

PETITIONS

The Clerk: The following petitions have been lodged for presentation:

By **Mr Humphries**, from 1,532 residents, requesting that the Assembly prohibit the availability of all X-rated material and the possession of child pornography.

By **Mr Stevenson, Mr Westende and Ms Szuty**, from 658, 5,766 and 219 residents, respectively, requesting that the Assembly legislate to permit the use of exotic and other animals in circuses.

By **Mr De Domenico**, from 422 residents, requesting that the Assembly reject any attempt to permit the establishment of a free-standing abortion clinic in the ACT.

By **Mr Lamont**, two petitions of similar wording, from 3,393 and 68 residents, respectively, requesting that the Assembly ban performances in the ACT by all circuses which include animal acts or animal sideshows.

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

X-Rated Material, Pornography and Violence

The petition read as follows:

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:

The petition of the undersigned citizens and residents of Australia draws to the attention of the Assembly the fact that the availability of mail order X-rated material and goods from the Territory has caused Australia to surpass the highest world statistics for sexual crimes.

Your petitioners therefore request the Assembly to:

- prohibit the availability of all X-rated material from the 1983 Ordinance
- prohibit the POSSESSION of child pornography by amending the 1983 Ordinance
- prohibit considerable violence and all forms of sexual violence in the 1983 Ordinance.

11 August 1992

Circus Animals

The petitions read as follows:

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

The petition of certain residents of the ACT draws to the attention of the Assembly that we support the traditional circus that has exotic and other animals as part of its presentations as long as strict conditions are applied in terms of the welfare of the animals.

Your petitioners therefore request the Assembly to legislate to permit the use of exotic and other animals in circuses.

Abortion Clinic

The petition read as follows:

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:

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

ACT law prohibits free-standing abortion clinics;

Your petitioners therefore request the Assembly to:

Reject any attempt to permit the establishment of a free-standing abortion clinic in the ACT.

Circus Animals

The petition read as follows:

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

The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that animals in circuses are:

- 1) Confined in small living areas for long periods of their lives.
- 2) Transported in cages and trailers over considerable distances.
- 3) Required to perform unnatural and often frightening behaviour for human entertainment.

Your petitioners regard the subjection of animals to these conditions as cruel and unnecessary and request the Assembly to ban from performance in the ACT all circuses which include animal acts or animal side shows.

Circus Animals

The petition read as follows:

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

The following petition, signed by residents of Victoria, supports Labor MLA David Lamont's proposal to ban the use of exotic animals in circuses for the following reasons:

- 1) Animals are confined in small living areas for long periods of their lives
- 2) Animals are transported in cages and trailers over considerable distances
- 3) They are required to perform unnatural and often frightening behaviour for human entertainment

Your petitioners regard the subjection of animals to these conditions as cruel and unnecessary and request the Assembly to ban performances in the ACT of all circuses which include animal acts or animal sideshows.

Petitions received.

PAPERS

MS FOLLETT (Chief Minister and Treasurer): Madam Speaker, I ask for leave to present a petition which does not conform with standing orders as it does not contain a request.

Leave granted.

MS FOLLETT: I present an out-of-order petition from 29 residents opposing the increase in parking costs.

MR HUMPHRIES: Madam Speaker, I seek leave to present a petition from interstate petitioners.

Leave granted.

MR HUMPHRIES: I present a petition from 2,987 interstate petitioners requesting that the Assembly prohibit the availability of all X-rated material and the possession of child pornography.

11 August 1992

MS SZUTY: Madam Speaker, I ask for leave to present two petitions which do not conform with standing orders as they do not contain requests.

Leave granted.

MS SZUTY: I present two out-of-order petitions from 14 and 102 residents concerning the banning of circuses and the cessation of podiatric services at Weston Creek, respectively.

QUESTIONS WITHOUT NOTICE

Land Tax

MR KAINE: I would like to address to the Chief Minister and Treasurer a question in connection with land tax. Madam Speaker, the Chief Minister and Treasurer, only last Friday, 7 August, noted in a press statement that there were clear anomalies in the law relating to land tax. I submit that that is a fact that has been known to everybody else for months. Given that she made her announcement only eight days before payments on this year's land tax were to fall due, I think it is reasonable to ask: When did the Government first become aware that there are serious anomalies in this Act?

MS FOLLETT: I thank Mr Kaine for the question, and I thank him for drawing attention also to the fact that I have taken action on the land tax. I have taken that action in response to representations that I have received from constituents. Madam Speaker, I think it is fair to say that the bulk of representations I have received have been received recently; in other words, in recent weeks, at a time when the due date for land tax payment was drawing near. I take Mr Kaine's point that the amendments that I have made were made quite close to the date when that tax was due. But, I repeat, most of the people who had a complaint to make about their liability for land tax in fact made it as the date drew near, and I do not think that is an unusual situation.

I would like to say, Madam Speaker, that I did announce a number of amendments to the land tax arrangements, and those amendments were made in order to eliminate what did appear to be anomalies in the legislation as it stood. I think members would appreciate that it is very difficult indeed for a piece of legislation, particularly a piece of taxation legislation, not to have some perhaps unintended consequences. It is a fact that every individual has a different set of circumstances; that individuals who own property in fact are as representative of the whole community as individuals in any other circumstances. So, it is a very difficult matter indeed to take into account every individual's circumstances.

I think it is also appropriate to say that the Government should not act hastily to take action on these matters, and we have not done that. It is up to individuals, of course, to arrange their tax affairs to minimise their liabilities, and many of them have done so; but I do not want a situation to arise where some taxpayers are able to minimise their liabilities whilst others, of course, continue to be liable for the tax. So, it is a matter that governments have constantly under review. I think we have taken appropriate and responsible action in making the amendments to rule out anomalies which did appear to be genuine, and, indeed, we will keep the land tax legislation under review, as we do all such legislation, to ensure that it does not have unintended consequences.

MR KAINE: I have a supplementary question, Madam Speaker. Since the Chief Minister has acknowledged that there are clear anomalies in the law, both in her media statement and in her response to my first question, why has the Government not moved to amend the Rates and Land Tax Act to remove those anomalies, rather than making a few off-the-cuff, offhanded administrative decisions that are only temporary in nature, presumably, since the anomalous law remains untouched?

MS FOLLETT: Madam Speaker, to answer Mr Kaine's question, there are a couple of matters within that legislation where legislative amendments do need to be made. In the meantime, the Commissioner for ACT Revenue will act as though those legislative amendments have been made, as he has a delegation to do.

Building Industry Standards

MR LAMONT: My question is directed to the Minister for Urban Services. Could the Minister inform the Assembly of any steps that he or his department has taken in response to the trial of random inspections carried out by ACT Building Control?

MR CONNOLLY: I thank the member for his question. There was considerable public concern some weeks ago when a preliminary report of a building inspector found its way into the media. That preliminary report, which came into being as a result of a request from me to the Building Controller to check to see how the random inspection procedures had been operating in relation to quality in the building industry, did give rise to some concerns that some standards were not being properly observed. I was also particularly concerned with the suggestion in that report that building inspectors felt that they were not being supported or being encouraged to rigorously enforce building standards.

Madam Speaker, the home construction sector is a vital part of the Canberra economy. The decision to purchase a family home is the largest individual decision that most families will ever enter into, and it is absolutely vital that the Canberra public can continue to have confidence in the high quality of home building in the ACT. To that effect I arranged this morning a meeting between the Building Controller, the Housing Industry Association, the Master Builders Association and the union representing building inspectors, so that we can work together to ensure that high standards will be maintained.

I have made it abundantly clear that we will expect building inspectors, if they find faults in buildings, to put stop-work orders on those sites and to require any faulty work to be rectified. If we find that individual builders are cheating the system we will take action against them. I am delighted that the Housing Industry Association supports that type of approach. The Housing Industry Association says, quite properly, that by far the majority of Canberra builders do do the right thing and, as an association, they are just as keen as the Government to ensure that shoddy practices are stamped out of that industry because their welfare is so intimately connected with public confidence in the industry.

11 August 1992

So, Madam Speaker, I am able to assure the Assembly that the Government has responded very swiftly to this report. It was a report that was commissioned by the Government because we had heard stories circulating in the industry that in some aspects all was not as it should be. As a result of the publicity and as a result of the firm government directions to the inspection service, I can assure the Assembly that the building inspectors will continue to take random audits of building sites and, if anything is found not to be correct, it will be required to be pulled down, it will be required to be rectified. The industry is sending out to its members the firm message that they are expected to comply and cooperate and to ensure that high standards remain in the Canberra building industry.

Sutton Park Driver Training Complex

MR STEVENSON: My question is to Mr Wood. What is the current situation with the old Australian Federal Police Driver Training Complex at Sutton Road? Until a definite decision is made on the future of the complex, it is certainly an excellent idea to allow community use of that facility. Has the facility been used free of charge by a group? Is this group charging others for the use of the facility? If so, what are the charges? How much income has been made and what has been done with the money?

MR WOOD: Madam Speaker, I thank Mr Stevenson. The Government is about to make a decision on the permanent arrangements for that site and you can be sure that, as we make that decision, we will have in mind the greatest benefit to Canberrans coming from that use. It is a large site; it is an important one; and there is no small number of groups who view it as a very useful asset. At present the site is managed by the ACT Road Transport and Distribution Industry Training Council. That is one of a number of groups established to promote training amongst various industries in the ACT and it is an appropriate group to have interim management because transport and driving is what they are on about.

You have asked, I presume, whether that group has had free use of the site. I will get some more detail for you on that, although I thank you for notification of your question. That group is operating it and is letting out the site. It has interim management. It lets it out at \$100 a day for other users. I am not sure, and I will find out for you, whether they charge themselves \$100 and put it into some management fund. That money at present, I believe, goes to Consolidated Revenue. It may be appropriate in the longer term for the revenue raised on the site to be spent on the site; that it should not cost us anything to manage. Other groups have had free use for a charity purpose. I do not know that there has been a great number of those. The amount of money raised in the second half of the 1991-92 financial year was \$12,750.

Land Tax

MR HUMPHRIES: My question is to the Treasurer. I refer to the Treasurer's statement of last week on land tax. She acknowledges in that statement what the rest of Canberra has known for some time - that there are clear anomalies in the law with respect to land tax. I assume that one of those anomalies is the case where a family home is owned by a family company, and that is why stamp duty has been temporarily lifted for transfer of that home to family members. I ask

the Treasurer: If the Government acknowledges that the case of the family home being owned by a family company is, in fact, an anomaly and should not be caught by land tax, why will she not grant this case a permanent exemption from land tax, rather than the temporary amnesty on stamp duty which she has announced in this paper?

MS FOLLETT: Madam Speaker, I thank Mr Humphries for the question and I am only too happy to respond to it. It is indeed the case that we have decided to allow a property which is owned by a company to be transferred into the names of shareholders without attracting stamp duty, and this is, in fact, a one-off amnesty to allow people to rearrange their affairs if that is their wish. That arrangement now means that people who were caught unawares by the extension of the land tax to residential properties have a chance to get their affairs in order and rearrange them. If people do not wish to take advantage of this amnesty, then we can only conclude that the company arrangement has some other advantages to them which outweigh the cost of paying land tax.

Mr Humphries has asked why we do not make that an ongoing situation. Clearly, there are a number of reasons why we are providing a one-off amnesty. There is a clear intent in the extension of the land tax to make commercial properties, whether they are residential in nature or of some other commercial nature, pay land tax. That is the clear intention of the legislation and, Madam Speaker, I think that it would be to defy the intention of the legislation to allow the kind of ongoing exemption that Mr Humphries has spoken of. It would also, of course, clearly be a cost to the rest of the community if there were to be a permanent exemption from stamp duty on these kinds of transfers.

Madam Speaker, as I say, it is the Government's intention to allow people this opportunity to rearrange their affairs if they wish. Not all people will wish to do so. Some of them may have company arrangements which are perfectly satisfactory to them and for which the benefits would outweigh the benefit of not being liable for land tax. There is also the question of capital gains tax. If people transfer properties in this way they may become liable for capital gains tax. Again, that is not an ACT tax; it is a Federal tax. But people need to weigh up their own particular circumstances to decide whether they want to take this action.

I think the one-off amnesty is a more than fair outcome; it is certainly an outcome that is designed particularly to help people who may not have been aware that they would be liable for land tax under this new arrangement. I think, Madam Speaker, it is a perfectly reasonable action for the Government to take, and I also think it is perfectly reasonable to make it clear that this will not be a continuing exemption from land tax and that people have a one-off chance to rearrange their affairs.

MR HUMPHRIES: I ask a supplementary question, Madam Speaker. In the future, in cases where family companies hold family homes and those companies can demonstrate quite clearly that they are not commercial arrangements but are purely arrangements to hold a family home, will there be some ongoing arrangement for an exemption from land tax on the same basis that the Minister has made other permanent exemptions from land tax available in this statement?

11 August 1992

MS FOLLETT: Madam Speaker, no, I cannot give Mr Humphries the assurance that he seeks. It is quite clear to me that people who make residential and domestic arrangements under a family company are very often seeking to minimise their tax obligations. I do not see any reason why the rest of the community should have to bear the burden of those people continuing to have an exemption from land tax when other taxpayers, in perhaps identical circumstances but for the family company arrangement, are liable. I think that is a quite anomalous situation that you are putting forward.

Podiatry Services

MS SZUTY: Madam Speaker, my question without notice is to the Minister for Health, Mr Berry. Both the Weston Creek Community Council and the ACT Council on the Ageing have expressed their concern about the withdrawal of podiatry services from the building occupied by the Independent Living Centre, a private medical practitioner and a private dentist, formerly known as the Weston Creek Community Health Centre. On what grounds have podiatry services to Weston Creek residents been withdrawn from Weston Creek without consultation, and will the Minister reinstate these services for the benefit of Weston Creek residents, including many elderly residents?

Mr Humphries: Hear, hear! A good question.

MR BERRY: I thank Ms Szuty for the question. I heard Mr Humphries interject, "Hear, hear". It was Mr Humphries, of course, who closed down the Weston Creek centre and put in, after significant pressure from the Weston Creek community, a small area of service in relation to podiatry. Why would Mr Humphries have the gall even to make a sound in relation to this matter when he has done so much damage to the provision of health services right across the Territory, not only in Weston Creek? I have seen those reports and they are reports that I take very seriously. Others have raised with me concerns about the provision of those services in Weston Creek. I have since asked the department to review the matter and to consult in relation to the issue in order that we can come to a decision to continue the provision of better services for the whole of the Canberra community. The services were withdrawn, and I have seen the reports and we are doing something about it.

Mr Humphries: You attacked me for cutting that service in the first place and now you have done it yourself. Are you not ashamed of your position?

MR BERRY: Quite contrary to what Mr Humphries did. Mr Humphries interjects, but he is the person who vandalised the health system in the ACT.

Mr Humphries: And you are carrying on the proud tradition, by the look of it.

MR BERRY: He is proud of the tradition. The service has been provided from the Phillip Health Centre, but we are reviewing the - - -

Mr Humphries: I tried that excuse; it did not wash with you.

MR BERRY: It does not wash with me now. I am reviewing the matter and we will be consulting with people with a view to providing the best service possible.

Land Tax

MR DE DOMENICO: Madam Speaker, I also ask the Treasurer a question and it relates to the media statement of last week. It took the Treasurer a year to realise that there are clear anomalies in the law. Will she explain how a mother working interstate by economic necessity, whose ACT home is occupied by relatives, not paying rent, could be liable for land tax?

MS FOLLETT: Madam Speaker, the members opposite clearly do not understand - I think it is a deliberate lack of understanding - the intention of this extension of land tax. I repeat that it is quite clearly intended that those residential properties pay tax on the same basis as other commercial properties. It is not relevant whether those properties are actually rented out at the time. They still have that potential value as rentable properties.

Mr De Domenico has asked a question about a mother who has made her property available to relatives without rent. Presumably, Madam Speaker, she has done that in the conscious knowledge that she could have charged them, or others, rent. So, she has done that as a deliberate policy. Madam Speaker, we have extended the exemption to the spouses of people who are compulsorily transferred interstate, and I think that does correct an anomaly. Where a spouse has owned a property and the partner is the one who is transferred, we have extended the exemption in those circumstances because, quite clearly, it would not be reasonable to expect one's spouse to stay behind and occupy that house as a principal place of residence.

But, where another family member adopts another principal place of residence, an interstate place of residence, and leaves the Canberra property, a rentable property with the potential to earn income, and makes an arrangement that does not actually capitalise on that income, then that is their choice; that is their decision, and I currently do not contemplate extending the exemption in those circumstances. Quite clearly, people could make all kinds of arrangements, which may or may not make any sort of economic sense, and then claim an exemption. As I have said, the intention of this legislation is that land tax will be levied on residential properties which are not the principal place of residence of the owner. That is the clear intention. Mr De Domenico is dying to leap to his feet with a supplementary question, so perhaps I will give him that opportunity.

MR DE DOMENICO: Madam Speaker, does the Chief Minister agree that the Rates and Land Tax Act does not require absence for work-related reasons to be involuntary? If so, will the Chief Minister immediately instruct the Revenue Office to reverse its decisions in the cases of appeals against land tax on this ground?

MS FOLLETT: Madam Speaker, I do not know that I agree with either part of Mr De Domenico's proposition; but, quite clearly, the Commissioner for Revenue has some discretion in these matters. He has, indeed, heard a great many cases, where people have claimed hardship or have claimed that there has been a death in the family, or for a variety of circumstances have sought exemption. If Mr De Domenico has such a case, then I suggest that he bring it to the attention of the Commissioner for Revenue and seek a ruling from him.

11 August 1992

Woden Valley Hospital - Adolescents Ward

MRS GRASSBY: My question is to the Minister for Health. Can the Minister tell me whether there are any plans to establish an adolescents ward at the Woden Valley Hospital?

MR BERRY: Thank you, Mrs Grassby, for the question. Madam Speaker, as members may know, part of the process of redeveloping Woden Valley Hospital has been the provision of in-patient services for treating - - -

Mr Moore: Tell her that it is something you will announce in the budget and you are not going to do it now.

Mr Kaine: With reduced bed numbers in all cases.

MR BERRY: When the interjections are finished I will answer.

MADAM SPEAKER: Order! Mr Berry has the floor.

MR BERRY: Thank you, Madam Speaker. That, of course, was discussed by the pediatric working party. I noticed just recently that Mrs Carnell was shrieking loudly about the provision of a new adolescents ward. As is usually the case with Mrs Carnell, she will always want you to spend more money but tax less. This is the Liberal Party - spend more; tax less.

Mrs Carnell: An adolescents unit is very cost-effective.

MR BERRY: Another \$1m. Every time Mrs Carnell opens her mouth, another \$1m.

Mrs Carnell: More efficient services.

MR BERRY: Here she goes again - another \$1m. When Mr Kaine opens his, it is, "No taxes. We want more tax dodges for the rich". The Liberals interject about the provision of services. They always want to spend more, but tax less; do not collect any more.

The members of this working party strongly supported the concept of the adolescents ward. They contended that it was inappropriate to locate such a facility approximate to the permanent pediatric ward and it was, of course, not included in the brief for that area. There are unique physical and emotional needs for adolescents, particularly those with chronic illnesses, and this has been recognised by the Woden Valley Hospital executive. The hospital, of course, supports the provision of an adolescents ward to meet those needs. At present the establishment of the ward is subject to resource constraints, as is the case with developing hospitals, and space availability as we go through the redevelopment process.

My current information is that the hospital is looking into the possibility of providing a facility for adolescents in the longer term as part of the refurbishment of building three at the hospital, and I have taken steps to ensure that there is close consultation with people who are concerned about the provision of those sorts of services within the hospital system. Just a few days ago I met with some

people from the youth sector who are concerned about the provision of those services. I have to say that there has been some misinformation about the issue that has been cast around, and I have taken early steps to ensure that people from the youth sector are properly consulted in the redevelopment process at the hospital. In the meantime, Madam Speaker, services for adolescents will continue to be provided, as they always have been, even under the Liberal Government, in the facilities at Woden Valley Hospital.

It is all right for people to shriek for more services with immediate effect - Mrs Carnell falls into this category - and, of course, that makes a good and tidy headline. But Mrs Carnell does not have to worry about the provision of these services. We have to do that. If you want experts to do things which are part of a social justice strategy, just come and see the Labor Party.

Land Tax

MR CORNWELL: My question is to the Chief Minister. I refer to her media statement last Friday, which said in part:

The Chief Minister today released details of several measures to assist landowners who had been made unintentionally liable for land tax following recent changes to impose tax on residential investment properties.

I ask: Chief Minister, will you introduce assessments of land tax on a pro rata basis, so that people are liable for tax only for the part of the year for which their property is actually rented? I specifically ask this question and give you as an example somebody who buys a property which is already rented. They cannot break the law and throw the tenants out on the street. There may be six months of that tenancy to run. They are obliged by the law to allow the tenants to stay there until that six months has expired. Under your proposals they are then deemed to be landlords and accordingly are charged rent, not for that six months but for the twelve months. Where is the equity and fairness in that?

MS FOLLETT: Madam Speaker, I do not have it in mind to make the payment of land tax pro rata, as I am sure Mr Cornwell is only too well aware. I think that members have to understand that the levying of the land tax is based on the land ownership and use at a particular date, and that date, of course, is 1 July of each year. In Mr Cornwell's theoretical case where the property was sold tenanted after 1 July, I would expect that the land tax would already have been levied. I fail to see how another situation could arise. But, Madam Speaker, I could be wrong about any individual case, depending on the dates that applied and so on. I would have thought that, for a person buying a property, that the question of whether it was liable for land tax at any particular point, given the size of the outgoings when you are buying a house, would be not a huge issue to be addressed in terms of the overall cost of the purchase of that property and the associated costs.

Madam Speaker, I think Mr Cornwell would have to raise an individual case if he wanted to convince me on that. The fact is that we do not have pro rata arrangements - this matter arose last year when this whole land tax question was under debate in the Assembly - basically for simplicity of operation. It makes for

11 August 1992

a much more cost-effective and simple operation for the tax to be levied at a particular date. It is also a system that is readily understood by landowners. Madam Speaker, I might also add that it is the system that is in operation in every State, so it is hardly unusual. It is hardly an unusual arrangement.

Mr Humphries: No, it is not. With a threshold?

Mr De Domenico: With a threshold?

MS FOLLETT: Members opposite might kick and scream - landlords to a man over there. They kick and scream; but they simply will not accept the purpose of this tax, and that is that residential commercial properties ought to be taxed in the same way as other commercial properties. I know that this offends you, but it is a fact that the pro rata arrangement does not apply anywhere else. You ask me to bring it in in the ACT and I say that we are not currently contemplating that, nor do I intend that we will contemplate that.

The arrangement we have at the moment is the simplest possible arrangement. It avoids the kinds of complexities that Mr Cornwell has alluded to in his question. Manual systems would have to be introduced to keep track of the dates and the various liabilities of each and every landlord in the ACT and also, of course, verification of all that information would be required. It would make for not only a very complex system but also a very costly system, and for that reason I do not contemplate it.

Investigations Unit

MR MOORE: My question is also to the Chief Minister. Chief Minister, is your internal Investigations Unit justifiable from the perspective of what it costs and what is saved in terms of dealing with fraud?

MS FOLLETT: Madam Speaker, that is a question and a half that Mr Moore has asked. I think it might be best if I take it on notice and try to get some quantified information, which I will certainly do, and make it available at the first opportunity.

Better Cities Program

MS ELLIS: My question is directed to the Minister for the Environment, Land and Planning. Mr Kaine has said that the ACT Government plans to waste scarce money by funding the better cities program to the tune of \$71.87m. Can you please correct this confusion that Mr Kaine has created?

MR WOOD: Madam Speaker, I think a number of statements have been made. To tell you what has happened, the Chief Minister has made a submission to the building better cities program. She submitted that to the relevant Federal Minister, Mr Howe, and announced that and gave, I suppose, a very brief overview of what that was about. I might just add as an aside that there was some comment about consultation. There will be consultation. There will be the usual, formal process of consultation. But this is the way that the Federal

Minister wants to handle it. We are anxious to get this program, so we will follow that process. When the funds are approved, as I trust they will be, we will go through the regular process that we all know so well.

As to the funding of it, we have sought \$13.7m from the Commonwealth. That will generate further funds. That will get the program up and moving. There will be further contributions from ACTEW, the Housing Trust and the Department of the Environment, Land and Planning; but the bulk of the money for this project obviously will come, and I should think come very willingly, from the private sector who will want to be involved in the development as it proceeds.

Mr Kaine: Have you asked them? Have you some commitment from the private sector?

MR WOOD: I deal with the private sector and the department deals with the private sector, and they have never been backward in a development proposal. I have never known one where they have not come and said, "Yes, we will work with you". These will be good proposals and I do not have any doubt that the private sector will be out there competing to participate in this project. I think that I should make that quite clear, to remove any confusion about this that arose from a number of media statements.

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

**AUDIT ACT - STATEMENTS OF VARIATION TO THE
APPROPRIATION ACT 1991-92 AND MINISTER'S ADVANCE
Papers**

MS FOLLETT (Chief Minister and Treasurer): For the information of members, I present a statement and schedules, which detail the increase of annual appropriation and the transfer of funds for the financial year 1991-92 made pursuant to section 49A of the Audit Act 1989, and presented pursuant to section 49B, and a statement with an attachment detailing the extent of Treasurer's Advance increase for the financial year 1991-92, and a statement of expenditure from the Treasurer's Advance, pursuant to section 47 of the Audit Act 1989, for 1991-92. I move:

That the Assembly takes note of the papers.

In accordance with section 49B of the Audit Act 1989, I have arranged for statements to be provided to the Assembly concerning additional variations to appropriations made in 1991-92. I tabled a statement in the Assembly on 25 June 1992 providing details of previous variations.

The Audit Act contains a number of provisions which enable appropriations to be varied during the course of the financial year. Subsection 49A(1) of the Act enables appropriations to be increased to onpass Commonwealth specific purpose payments where receipts of such payments exceed the amount expected

11 August 1992

at budget time. This enables the relevant programs to provide additional levels of service in accordance with additional levels of funding available from the Commonwealth under Commonwealth-ACT agreements. When the Executive gives a direction to increase appropriations in accordance with this subsection, the Chief Minister is required to provide the Assembly with a copy of the directions and a statement of the reasons that led to the giving of the direction.

In addition, the Executive has also approved directions to transfer funds within and between programs in accordance with section 49(1) of the Act. This section enables surplus funds that have arisen during the course of the year to be available for use within other areas of the Government. These measures were taken by the Executive to facilitate the additional funding needs of programs, including augmentation of the Treasurer's Advance, without increasing the total appropriated funds available.

Madam Speaker, in accordance with subsection 47(4) of the Audit Act 1989, I have arranged for a statement to be provided to the Assembly concerning an increase in the appropriation to the Minister's Advance, which members will know as the Treasurer's Advance, in 1991-92 made under subsection 47(3) of the Act. The Audit Act enables the appropriation to the Treasurer's Advance to be increased where the Executive is satisfied that moneys in the Consolidated Fund in a financial year will be in excess of moneys required for the appropriations relating to that financial year. The Act also sets out the criteria which, if satisfied, enable the Consolidated Fund to be appropriated by the amount of the increase to the advance. Where an increase to the Treasurer's Advance is made, subsection 47(4) of the Act requires the Chief Minister to table in the Assembly, within six sitting days, an explanatory statement setting out the facts upon which the Executive was satisfied that additional moneys would be available, the amount by which the advance has been increased, and the purposes for which the additional appropriation is to be charged.

Madam Speaker, on 17 June 1992 the Executive was satisfied that sufficient moneys were available in the Consolidated Revenue Fund to meet the requirement for an additional appropriation of \$12.3m. A large part of these available moneys was as a result of unutilised funds in the allowance made for prospective salary and wage increases. A number of significant issues led to the need to increase the appropriation to the advance, and these are set out in Attachment B to the statement tabled.

The increase in the advance made under subsection 47(3) increased the total appropriated funds available in 1991-92 by 0.96 per cent and was funded by revenues available in 1991-92. The increase in the Treasurer's Advance was necessary to enable the continuation of the functions of government. However, as I announced earlier today, the final 1991-92 outcome for the recurrent budget was a small surplus. Therefore, the increase in the advance did not negatively impact on the original budget estimate.

I will arrange for a further statement to be provided to the Assembly on all expenditures which were a final charge against the advance in 1991-92. The detailed information required under subsection 47(4) is included in the attached statement, based on information available at 17 June 1992.

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

SUBORDINATE LEGISLATION AND COMMENCEMENT PROVISIONS Papers

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

The schedule read as follows:

Adoption of Children Act - Determination of fees - No. 93 of 1992 (S101, dated 30 June 1992).

Agents Act - Determination of fees - No. 70 of 1992 (S91, dated 30 June 1992).

Agents (Amendment) Act - Notice of commencement (S91, dated 30 June 1992).

Architects Act - Determination of fees - No. 103 of 1992 (S105, dated 1 July 1992).

Associations Incorporation Act - Determination of fees - No. 90 of 1992 (S101, dated 30 June 1992).

Building Act -

Determination of fees -

No. 102 of 1992 (S105, dated 1 July 1992).

No. 109 of 1992 (S105, dated 1 July 1992).

Revocation, Adoption and Modification of the Building Code - Determination No. 125 of 1992 (S132, dated 31 July 1992).

Buildings (Design and Siting) Act -

Determination of fees - No. 112 of 1992 (S109, dated 1 July 1992).

Notice of commencement (S116, dated 8 July 1992).

Business Franchise (Tobacco and Petroleum Products) Act - Determination of fees - No. 116 of 1992 (G27, dated 8 July 1992).

Business Names Act - Determination of fees - No. 91 of 1992 (S101, dated 30 June 1992).

Cemeteries Act - Determination of fees - No. 108 of 1992 (S105, dated 1 July 1992).

Clinical Waste Act - Determination of fees - No. 107 of 1992 (S105, dated 1 July 1992).

Co-operative Societies Act - Determination of fees - No. 67 of 1992 (S86, dated 19 June 1992).

Credit Act -

Declaration - No. 111 of 1992 (S108, dated 1 July 1992).

Determination of fees - No. 85 of 1992 (S101, dated 30 June 1992).

Dangerous Goods Act - Determination of fees - No. 106 of 1992 (S105, dated 1 July 1992).

Dog Control Act -

Determination of fees -

No. 82 of 1992 (S99, dated 29 June 1992).

Notice of declaration of exercise areas - No. 110 of 1992 (S107, dated 1 July 1992).

Domestic Violence Act - Approval of crisis support organisation - No. 119 of 1992 (S103, dated 8 July 1992).

11 August 1992

- Financial Institutions (Application of Laws) Act - Notice of commencement (S92, dated 1 July 1992).
- Financial Institutions (Supervisory Authority) Act - Financial Institutions (Supervisory Authority) Regulations - No. 10 of 1992 (S122, dated 14 July 1992).
- Health Services Act - Determination of fees and charges - No. 71 of 1992 (S93, dated 29 June 1992).
- Housing Assistance Act -
Creation of Housing Assistance Programs - Determinations -
 No. 68 of 1992 (G25, dated 24 June 1992).
 No. 83 of 1992 (S100, dated 30 June 1992).
 No. 131 of 1992 (S125, dated 20 July 1992).
- Homebuyer Housing Assistance Program - Determination of fees - No. 124 of 1992 (S120, dated 13 July 1992).
- Long Stay Caravan Park Housing Assistance Program - Determination of fees - No. 123 of 1992 (S120, dated 13 July 1992).
- Instruments Act - Determination of fees - No. 92 of 1992 (S101, dated 30 June 1992).
- Lakes Act - Determination of fees - No. 81 of 1992 (S99, dated 29 June 1992).
- Land (Planning and Environment) Act - Determination of fees - No. 72 of 1992 (S95, dated 30 June 1992).
- Legal Practitioners Act -
Determination of fees - No. 98 of 1992 (S101, dated 30 June 1992).
- Liquor Act -
Determination of fees - No. 87 of 1992 (S101, dated 30 June 1992).
Determination - No. 115 of 1992 (G27, dated 8 July 1992).
- Machinery Act - Determination of fees - No. 117 of 1992 (S115, dated 6 July 1992).
- Magistrates Court Act - Determination of fees - No. 95 of 1992 (S101, dated 30 June 1992).
- Magistrates Court (Civil Jurisdiction) Act -
Determination of fees - No. 96 of 1992 (S101, dated 30 June 1992).
- Magistrates Court (Civil Jurisdiction) Regulations (Amendment) - No. 11 of 1992 (S122, dated 14 July 1992).
- Motor Omnibus Services Act -
 Revocation of determination of charges -
 No. 99 of 1992 (S104, dated 30 June 1992).
- Motor Traffic Act -
Determination of fees - No. 113 of 1992 (S104, dated 30 June 1992).
- Determinations -
 No. 120 of 1992 (S118, dated 9 July 1992).
 No. 121 of 1992 (S118, dated 9 July 1992).
 No. 122 of 1992 (S119, dated 10 July 1992).
- Motor Vehicle (Third Party Insurance) Regulations (Amendment) - No. 12 of 1992 (S133, dated 4 August 1992).
- Motor Vehicles (Dimensions and Mass) Act - Determination of fees - No. 101 of 1992 (S105, dated 1 July 1992).
- Nature Conservation Act - Determination of fees - No. 76 of 1992 (S99, dated 29 June 1992).
- Pesticides Act - Determination of fees - No. 77 of 1992 (S99, dated 29 June 1992).

- Plumbers Drainers and Gasfitters Board Act - Determination of fees - No. 104 of 1992 (S105, dated 1 July 1992).
- Pounds Act - Determination of fees - No. 80 of 1992 (S99, dated 29 June 1992).
- Protection Orders (Reciprocal Arrangements) Act - Notice of commencement of sections 3 to 12 inclusive as 3 August 1992 (S130, dated 27 July 1992).
- Protection Orders (Reciprocal Arrangements) (Consequential Amendments) Act - Notice of commencement of sections 7 and 12 as 3 August 1992 (S130, dated 27 July 1992).
- Public Place Names Act -
Determinations -
No. 114 of 1992 (S110, dated 6 July 1992).
No. 129 of 1992 (S124, dated 27 July 1992).
No. 130 of 1992 (S124, dated 27 July 1992).
No. 133 of 1992 (S124, dated 27 July 1992).
No. 134 of 1992 (S124, dated 27 July 1992).
- Rabbit Destruction Act - Determination of fees - No. 79 of 1992 (S99, dated 29 June 1992).
- Rates and Land Tax Act - Determination for the purposes of the *Rates and Land Tax Act 1926* - No. 132 of 1992 (S128, dated 23 July 1992).
- Real Property Act - Determination of fees - No. 88 of 1992 (S101, dated 30 June 1992).
- Registration of Births, Deaths and Marriages Act - Determination of fees - No. 89 of 1992 (S101, dated 30 June 1992).
- Registration of Deeds Act - Determination of fees - No. 94 of 1992 (S101, dated 30 June 1992).
- Roads and Public Places Act -
Determination of fees -
No. 100 of 1992 (S105, dated 1 July 1992).
No. 105 of 1992 (S105, dated 1 July 1992).
- Sale of Motor Vehicles Act - Determination of fees and charges - No. 84 of 1992 (S101, dated 30 June 1992).
- Scaffolding and Lifts Act - Determination of fees - No. 118 of 1992 (S115, dated 6 July 1992).
- Small Claims Act - Determination of fees - No. 97 of 1992 (S101, dated 30 June 1992).
- Stock Act - Determination of fees - No. 75 of 1992 (S99, dated 29 June 1992).
- Surveyors Act - Determination of fees - No. 73 of 1992 (S95, dated 30 June 1992).
- Taxation (Administration) Act - Determination - No. 69 of 1992 (G25, dated 24 June 1992).
- Trade Measurement Act - No. 86 of 1992 (S101, dated 30 June 1992).
- Traffic (Amendment) Act - Notice of commencement (S87, dated 17 June 1992).
- Unit Titles Act - Determination of fees - No. 74 of 1992 (S95, dated 30 June 1992).
- Water Pollution Act - Determination of fees - No. 78 of 1992 (S99, dated 29 June 1992).

11 August 1992

LEGISLATION PROGRAM - BUDGET SITTINGS 1992 Paper

MR BERRY (Deputy Chief Minister): For the information of members, I present the legislation program for the budget sittings. I move:

That the Assembly takes note of the paper.

I have just tabled the Government's legislation program for the 1992 budget sittings. The program will provide members with an overview of the non-budget legislation proposals intended for introduction into the Assembly or for preparation during the budget sittings. So as to facilitate easy reference by members, we have again structured the program in individual portfolio groups. Within each portfolio, the legislation proposals are then arranged in a three-tier priority order. Members should be aware that the program is primarily an indication of the Government's legislative agenda. By its nature the program must be flexible so as to accommodate emerging issues. Similarly, the priority classification of proposals may also be subject to change.

It is the Government's intention to introduce as many Bills in the first priority category as possible within the budget sittings. During the autumn sittings, 41 of the 62 Bills listed in the first priority category were introduced into the Assembly. I consider this to be a reasonable strike rate, given the abbreviated nature of the autumn sittings. In relation to legislation proposals falling into the second priority, it is possible that some may be introduced into the Assembly during the current sittings. This will depend on the progress with the issues involved and the degree of complexity in terms of drafting.

Madam Speaker, making available the Government's legislation program is intrinsic to our commitment to open and accountable government. I trust that members and the public will find the document informative and useful.

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

LAND TAX LEGISLATION Discussion of Matter of Public Importance

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

The Government's inept administration of land tax legislation.

I call Mr Kaine.

Mr Moore: Madam Speaker, I raise a point of order with reference to standing order 156, which deals with conflict of interest. I heard the Chief Minister, during an answer in question time, make an aside that some members may well be landlords. If there is a case where somebody may have a conflict of interest, that issue can be resolved by this Assembly saying, "Yes, you can take part in the discussion". If there are no such members, it is irrelevant. However, it is possible that a member may be put in an awkward position by speaking to this issue if

there is a possible conflict of interest. At the same time, it is very easily resolved by the Assembly voting that there is no conflict of interest in allowing the member to discuss the matter. If there is a member in that position, it might well be worth resolving the matter before we start.

MADAM SPEAKER: Is it the wish of the Assembly that we proceed with this matter?

Leave granted.

MADAM SPEAKER: The Assembly has granted leave for Mr Kaine to continue.

MR Kaine (Leader of the Opposition) (3.18): Thank you, Madam Speaker. I can say quite unequivocally, right up front, that I have no conflict of interest. I own no house but the one I live in. Perhaps Mr Moore might be able to affirm the same thing when it is his turn.

Madam Speaker, it is regrettable that in the last three or four months this Follett Government has lost so much credibility in the eyes of the public, for a number of reasons. One of them, of course, is the matters that have come to the head of their agenda that were not declared during the election campaign. There has been a lot of discontent about matters of that kind. The question of land tax is one of those areas in which this Government has lost an enormous amount of credibility. I have to say, Madam Speaker, that the answers given during question time today indicate that the Chief Minister clearly does not understand or does not care how the land tax Act is put into effect and what its consequences are for private citizens in the Territory. I will deal with that matter in some detail.

The land tax legislation was introduced only about a year ago, and there is no question that the Government's intentions were to use it specifically as a revenue raising measure. It was directed, I believe, and I think the Government would affirm, at taxing income-producing investment properties. Although the Liberal Party had some concerns about that and does not like the tax in its present form at all - - -

Ms Follett: Mr Humphries voted for it.

Mr Humphries: To save your budget; that is why.

MR Kaine: We accept the Government's right to attempt to raise revenues.

Ms Follett: You voted for it.

Mr Humphries: I am not doing any favours for you next time; that is for sure.

MR Kaine: Madam Speaker, if we are going to conduct a debate on this issue, I might as well sit down.

MADAM SPEAKER: Order! Mr Kaine has the floor.

MR Kaine: Thank you, Madam Speaker. It is not so much the nature of the legislation that is of concern to me; it is the way it has been put into effect. It has been put into effect unthinkingly and, despite the claims of this Government, it has no regard whatsoever for the principles of social justice. We only have to look at some of the cases that have been put forward to demonstrate that they

11 August 1992

have no intention of considering this matter in the light of their so-called social justice principles. The legislation was flawed when it was introduced in the first place, and we would have defeated it on the floor of the house, I submit, had we been given more than three days to consider it.

The Chief Minister said earlier that such a tax exists in the States. Of course it does. But, once you step across the border into Queanbeyan, you have to own property the collective UCV of which adds up to \$170,000 before you pay even one cent of land tax. Here it counts from the very first dollar. Sadly, at the time the Bill was debated we could not get sufficient statistics, even from the Revenue Office - to give them credit, they did their best - to show what would be the effects of applying some sort of threshold. The legislation was flawed from the outset, and since then innocent people, people who should not be subjected to this tax, have been caught in the net.

There is another flaw in the legislation relating to the Commissioner for Revenue. Despite the assertion by the Chief Minister and Treasurer only a few minutes ago that the Commissioner for Revenue has discretion, the Act gives him no discretion whatsoever. If the Commissioner for Revenue has been exercising discretion under this Act, I would like to know under what provision of the Act he is doing it. Is there some ministerial direction? Is there a ministerial determination? Is there a regulation under the Act that we do not know about? The Act gives the Commissioner for Revenue no discretion.

To give him his due, the Commissioner for Revenue has been implementing the terms of the Act implicitly, and as a public servant you have to give him credit for doing that. But what have the results been? Appeals against unreasonable levying of the tax have been rejected, because he has no discretion to do otherwise. Unsuccessful appellants have been told, as is their right, to go to the Administrative Appeals Tribunal; but many of them do not have the resources to do it. After paying this tax, paying their rates and paying everything else that they are subjected to, they simply do not have the money that is required to go to the Administrative Appeals Tribunal and have their cases heard.

There was considerable public concern about the tax one year ago, when it was introduced. That is why I asked the Chief Minister earlier when the Government had suddenly been struck with the notion that there were flaws in this Act. One year ago, when the Bill was first introduced, we received a lot of information, a lot of case studies, which indicated that on the face of it these people should not have been levied. Yet here we are, a year later, and the Government has done nothing to amend the Act. Even on the basis of what has happened in the last two or three weeks, they still have not moved to amend the Act, although the Chief Minister herself acknowledges that the law is defective.

To come up today with some administrative arrangements that bypass the Act, which can be changed just as easily tomorrow as they were last Friday, and to claim that that is a solution to the problem, that the anomalies in the Act have been fixed, is a fantasy. Nothing in the Act has been fixed by the Government; all the flaws that have existed for the last year still remain. An administrative decision to bypass the process of amending the law to get rid of those anomalies is not good enough.

It is interesting also that the Chief Minister made these announcements only last Friday, one week before the tax was due and payable. Why did she do that? She did it because the Opposition indicated to her that we were going to take action to amend the Act. It was not until we did that that the Chief Minister suddenly thought, "Maybe we have a problem; maybe we had better do something". On 7 August, one week before all the payments of tax were due, recognising that the law was anomalous, the Chief Minister suddenly made some very hasty administrative decisions. The Government has a case to answer for its ineptitude and its refusal to see the lack of social justice in this Act. I am using their words; they are the people who talk about social justice. There is no social justice for many people under this Act.

I have signalled what the Opposition intends to do. We have already got some draft amendments out of the Legislative Counsel's Office. We will be revising them over the next few days and we will be putting them on the table. There are some clear inequities in this Act that need to be removed. We must relieve our citizens of the tax burden when they should not be levied the tax in the first place. There are dozens of them out there. We have a very small sample, but it is indicative of the nature and the degree of the problem.

There are people who should not be liable to the tax, but they are caught by the sheer inflexibility of this Act. We intend to make the tax burden bearable for those who are really liable for the tax. There are many retired people, superannuants, who simply do not have incomes that can carry simultaneous levying of rates and land tax. This belies the proposition put forward by Ms Follett that they want to tax commercial properties. These are not commercial properties.

There seems to be a supposition, ideological perhaps, on the part of the Government that if you own a second house you are a capitalist, you are earning massive profits, and you should be paying tax to the Government. There are many cases where people own houses not for revenue earning in the sense of supplementing their incomes but as an investment for their superannuation. What they get from the property is their only income. They are not capitalists at all; they are people who had no superannuation available to them and who made the decision that they were not going to be dependent on the old age pension. They took a prudent decision to buy a house 20 or 30 years ago. They get a small rental income from it, and this Government says, "You are a capitalist and we are going to hit you for the tax. We are not interested in your circumstances. Don't tell us about it. There is no appeal, and the Commissioner for Revenue will reject your application. Don't bother coming back and talking to us, because we don't want to know".

We intend to change the situation so that people like that do not have to pay the tax; or, if they are legally liable for it, provision will be made for them to pay it in a reasonable and sensible way, and that means instalment payments. We intend to give the Commissioner for Revenue some reasonable discretion in considering appeals. Despite what the Chief Minister said, the Commissioner for Revenue has no discretion whatsoever under the Act, except in some very specific cases. I must say that, in one or two cases where he has exercised discretion, I believe he has been unduly harsh, and I will mention one of those in a minute.

11 August 1992

The final thing we intend to rectify is this notion, expressed by the Chief Minister, that, if a person leaves the Territory for work-related reasons, he or she must go involuntarily before he or she is able to have the tax waived. The tax Act does not say that. The Act refers explicitly to leaving the Territory for work-related reasons. The Revenue Commissioner has been saying, "If you go out of Canberra for work-related reasons, other than because your employer requires you to go, you are not entitled under the Act to a waiver of the tax". That is not the context of the Act, it was never intended by the Act, and I think the Act needs to be amended to make sure that that does not occur in the future. When a woman leaves her children in her house in the ACT and goes to Adelaide because that is the only place she can get a job, this Government takes \$800 a year from her in tax. That is social justice? I do not believe so. There are some real anomalies in this Act.

The Government should have moved to amend the Act. It has merely said, "We are going to give an amnesty for three months and we are going to allow people an extra 28 days to pay". Why did they say that? Why did they allow people 28 days to pay? If it was perfectly good last year to make people pay by 15 August, why have they allowed a 28-day deferment of payment this year? It is because they know that the Act is anomalous. But the solution to that is to amend the Act, not to make some administrative decision. The Government has not acted responsibly; it has not acted in accordance with its own concept of social justice. I must keep repeating that because it simply is true.

There are a couple of other aspects of this matter that I would like to refer to. It demonstrates some sort of woolly thinking, if you like, on the part of the Government. We have just gone through a debate about the payment of tax and the like, and the fact that if you do not pay your land tax on time there is a 20 per cent interest penalty. It is only a matter of weeks ago that we were debating in this place interest rates on credit cards. We were told by the Government that a 19 or 20 per cent interest rate on credit cards was usurious. We cannot have people being charged 19 and 20 per cent on their credit cards, we were told. But the Government does not mind charging 20 per cent to somebody who misses the date for paying his land tax. Where is the social justice in that? Where is the double standard in that?

The Government has cause to rethink its attitude to this tax. Instead of the Opposition putting up amendments, the Government should have done it, and it should have done it a long time ago. To react only in the last few days, as the Chief Minister did, when suddenly it dawned on her that there were some problems with the Act, is too little too late. The Opposition finds the situation unacceptable.

I have literally dozens of letters from people who in every case have a good argument for saying that theirs is not a commercial rental property. It may be a house that was bequeathed to the children by the father, with a proviso that the wife reside in it for the rest of her life. Why should that widow pay land tax? It is absurd. It always has been and always will be, until that woman dies, her family home, her principal residence, despite the fact that some sort of trust arrangement has been set up. It is not a commercial deal.

Mr Connolly: It is getting around tax.

MR KAINE: Mr Connolly seems to think it is okay that these widows should be forced to pay \$700 or \$800 a year land tax. I do not think so, and there are hundreds of people out there who do not think so either. The Government is going to get a backlash over making people like this pay land tax. Just wait and feel the impact of it. The public feeling on this issue is very strong, as you will find out.

MS FOLLETT (Chief Minister and Treasurer) (3.33): Madam Speaker, I am very surprised indeed at the lack of substance in Mr Kaine's speech on this matter. I think it is his maiden MPI, and it is not a great start. Unfortunately, it demonstrates a singular lack of responsibility in relation to the ACT's budgetary needs. Mr Kaine is attempting to deny the ACT a tax that is available in every other State. Mr Kaine is attempting to advantage one commercial investor in the ACT over another in a way that I find quite inequitable.

Mr Kaine's assertion is that the Government has been inept in its administration of this land tax. That is simply not the case. I can assure Mr Kaine that the land tax administration in the ACT is widely recognised among tax administrations across Australia as being the most efficient, most cost-effective system in the nation.

Mr Kaine: And the most draconian.

MS FOLLETT: Madam Speaker, believe me, Mr Kaine does not know what he is talking about here, and that surprises me. In somebody who purports to be the alternative Treasurer, I find that surprising and disappointing. What Mr Kaine really means is that somehow the recent broadening of this tax base to include residential properties which are held for investment purposes was an inept decision. I think that is what he is getting at. Mr Kaine is leaving the chamber. That does not surprise me; he must be a bit embarrassed over his performance. If what Mr Kaine means is that it was an inept decision, I point out to him that that decision was supported by Mr Humphries. At the time this matter was debated in the Assembly the Liberal Party, as is usual, was divided. One of them supported it; others did not. I leave it to members to consider where the ineptitude lies. It clearly lies with our Liberal colleagues opposite.

The decision taken last year to broaden the land tax base was made on extremely sound grounds. It was made in the light of the Grants Commission's recent finding that the ACT's land tax was generating less than half the revenue collected by land tax in the standard States. Mr Kaine, if we can believe his statements today, would have been happy to leave that situation. The alternative Treasurer, so called, was quite happy to write off that potential revenue - quite happy to raise it somewhere else, I presume; quite happy to leave the residential investors of the ACT alone and not attempt to bring them into some kind of equity with residential investors in other States. Mr Kaine ignores reality. He ignores what I consider are his responsibilities as the alternative Treasurer.

Mr Kaine made a number of other statements which I believe are also incorrect. First of all, he continued to assert that the commissioner has no discretion in this matter. I refer Mr Kaine and others to the relevant part of the Rates and Land Tax (Amendment) Act, which states:

11 August 1992

... if the Commissioner is satisfied that by reason of the death or illness of any person or on some other compassionate ground the owner has a compelling reason for not occupying the parcel for a longer period than 12 months -

that is a ground for exemption. If that is not a discretion, what is? Mr Kaine has simply not read the Act or, if he has, he has deliberately misconstrued what is in it. It is also the case that the commissioner may, in cases of hardship, allow people time to pay. That is another discretion he has. But he has to know, in the first place, what are people's grounds for claiming such hardship.

Mr Kaine continually asserted that people had no right to appeal. That is simply untrue. People are able to appeal to the Administrative Appeals Tribunal. The cost of that is some \$240, which is much less than, say, a legal process would be. If people are faced with a land tax bill which they consider is completely unjustified, that is a course of action that is clearly open to them, and it is open to them at a fairly modest cost. I feel that Mr Kaine has deliberately misinterpreted what is in the land tax Act voted on by the Assembly last year.

I want to go through fairly briefly the changes that were made last week by the Government. These changes were made in response to community concerns. Having reviewed the correspondence and the personal representations made to me, I am prepared to review a piece of legislation and make adjustments where that is necessary - unlike Mr Kaine, whose position remains that he would simply do away with this tax. He does not think that these investors ought to be taxed at all. The changes I have made I will reiterate because I think members opposite have only the sketchiest knowledge of what they are.

First of all, we have introduced an amnesty period to allow property to be transferred from a private company into the shareholders' own names. Where that occurs it will not attract stamp duty, providing that certain conditions are met. I think that is a significant concession. We have also allowed an exemption from land tax for property which is occupied as a principal place of residence by someone who has a life tenancy under a will. Again, I think that will meet a number of the problems of constituents that have been raised with me, and members opposite agree with me on that.

A further change we have made is to extend the current exemption that is available to people compulsorily transferred for employment reasons to include the spouse of an owner. Quite clearly, there has been the occasional anomalous situation where, say, a wife owns the house and it is the husband who is transferred, or vice versa. We do not want to interfere in those kinds of domestic arrangements. I think it would be anomalous to do so, and therefore we have extended that exemption.

Finally, the payment date for land tax this year has been put back from 15 August to 15 September. I have done that deliberately in order to provide some relief for land tax payers who might be facing cash flow problems because 15 August, as I am sure all members know, is the due date for rates payments as well. We have moved the payment dates a month apart, and I think that will ease people's cash flow problems, if they have any. In the future, the Government will be ensuring that the dates for payment of rates and land tax do not coincide. I think that is a reasonable thing to do, to ensure that people do not get hit with two bills at the one time.

Mr Cornwell: Why did you not do it in the first place?

MS FOLLETT: I might say to Mr Cornwell: Why did members opposite not move that way? Why did you not move to amend it when it was in the Assembly last time? You did not.

Mr Cornwell: It was your Bill, not ours.

MS FOLLETT: Mr Humphries supported it. They just cannot get over that fact. Madam Speaker, I have responded, I believe, to the bulk of the problems that have been put forward to me on the question of land tax on residential properties.

Mr Kaine has asked also why we did not put in an instalment scheme, and he has indicated that he will be moving in that way. He has every right to do so; he has the right to move in that way. However, I think he should bear in mind that, when the instalment system was abolished by vote of this Assembly some years ago, that was done consciously as a savings measure. To introduce an instalment system for payment of land tax would cost the revenue of this Territory between \$500,000 and \$600,000 a year. That is a pretty considerable concession to make to people who own investment properties. That \$500,000 to \$600,000 a year would be made up of loss of interest and earnings on the payments the Government would otherwise be able to get and the administrative costs of sending out four bills a year instead of one. Clearly, there is a cost to an instalment system, and I think members ought to understand that. When the instalment system was removed, it was done consciously as a cost-saving measure.

There is also some question, in social justice terms, of asking ourselves whether we really need to give a concession to, say, the Canberra Centre, to David Jones? These are organisations that pay land tax and, frankly, I think they can well make the payments in a lump sum, particularly in the light of the fact that most commercial properties in the ACT have had a considerable reduction in their rates bill this year because of the fall in commercial property values during the recession. Why do we want to give a concession to our big business mates? Mr Kaine does, and that should not surprise anybody. But is that social justice? They have gone a bit quiet over there, Madam Speaker. I hope it is because they are thinking deeply about this question. That was not a consequence they had intended, I feel. They did not think of that. I think we might have caught them out on that one.

To conclude, I found Mr Kaine's address on this matter lightweight, to say the least. As his initial foray into matters of public importance, he has not done himself or his party justice. All the points Mr Kaine has raised are easily addressed. Far from this matter being managed in an inept fashion, it has been handled in a way that is equitable, efficient and cost-effective. Only a Leader of the Opposition who never intends being in government could see it any other way. Mr Kaine has been inept in his handling of this matter.

Finally, might I say that the Government remains committed to reviewing this legislation and to making changes to it whenever and wherever we believe that it is necessary. Why do members opposite see fit to criticise me for making changes when they are proposing to make changes themselves? I find that kind of attitude totally hypocritical. The system we have in place is efficient and is being handled well. The changes that have recently been made to the land tax

11 August 1992

arrangements address, in my view, the vast majority of the problems that have been raised with me by constituents who find themselves liable for this tax. Clearly, because it is a relatively new extension to the taxing regime in the ACT, not everyone is going to be happy with it. Of course they are not. People who find themselves liable for a tax on their investments for which they were not previously liable are not going to be happy; but I believe that the way this tax operates is socially just, equitable and efficient. Members opposite are kidding themselves if they think they can criticise the Government, or the administration, as Mr Kaine is doing, on its handling of the land tax matter. Their arguments are hollow, they lack substance, and I do not believe that they have even convinced themselves on this question.

MR MOORE (3.47): When the land tax was originally introduced, I chose to support the Bill, primarily on the basis that it is a tax on land investment rather than on productivity. Almost every other tax that is levied in the ACT, whether it be sales tax, income tax or whatever, almost always can be seen as a tax on productivity, on producing, on working. A land tax is a tax on speculation in property.

When we talk about residential land tax, we are often dealing with people who have decided that one of the best forms of superannuation they might be able to use is a solid investment in residential property, so that they will not be on the pension, so that they will not be a burden to society from a financial point of view. That is a very admirable perspective. However, it is still a perspective that takes into account only some people, and it is that investment - if you like, putting away their nest egg - that can be taxed. Would not Australia be far better off if people who wanted to make that kind of investment invested in productive enterprises? I think that is an important issue to raise.

There are a couple of things I would like to clarify. Like Mr Kaine, I do not have any conflict of interest in this respect. Secondly, I found particularly churlish the interjections of the Labor Party and the comments of the Chief Minister about how Mr Humphries voted on this issue when the matter came up in the last Assembly. As those members who were here will recall, that occurred because the Residents Rally had decided that they would get some mileage out of opposing this form of taxation and that it might somehow or other help them to get elected. They had done a little bit of a bounce from one view to another, which we had perceived to be a quite common and normal experience.

I made my position on land tax quite clear, and it continues to be the same. I support a land tax. As the Chief Minister pointed out, no revenue raising measure is going to make everybody happy. There are going to be some people who are terribly disappointed about it. We have a sector of the community who keep saying that payroll tax should be eliminated, that it is a tax on productivity. That is their argument, largely. There is also a sector of the community that says that land tax should be eliminated. I imagine that there are many people in the community who think income tax should be removed as well. There are some members of the community who think sales tax should be removed and other members of the community who think we should put sales tax on everything. That will probably be decided at the next Federal election. The point I am making is that there are always going to be some people who are unhappy about this sort of taxation.

Harking back to Mr Humphries's vote, at the time, with the way the numbers would have fallen, the budget of the minority Labor Government of only five members would have been invalid. You would not have had a budget had it not been that the Liberals weighed up two principles, I guess: Whether they wanted to vote for that particular Bill or whether a minority government was entitled to its budget. It was for that reason that Mr Humphries voted one way while the rest of the Liberals voted the other way, noting their objection to the tax but also providing the support for the higher principle that a minority government should have its budget. That is the same commitment I made during the election campaign. I have taken a little time to provide some support for Mr Humphries. I feel that the way he was dealt with was rather churlish, when he had done very much the right thing.

With the land tax system as it stands at the moment, some of the modifications the Chief Minister has announced have been important and effective. The issue the Chief Minister raises about quarterly payments is one that I think needs to be addressed. The Chief Minister quite rightly raises the point that quarterly payments for David Jones - I think that was the example she gave - and other big commercial enterprises are not necessary. Those commercial enterprises project their costs and expenditure over a long period and they ought not to have any great difficulty in meeting the payments at the time set. However, that is very different from the vast majority of residential landlords, who have invariably used the residential investment as their superannuation. I have been lobbied heavily on this since I got back from leave only a day ago. I think it is appropriate that ordinary people have the opportunity to make quarterly payments. The arguments put a couple of months ago, I think by Mr Connolly, on ACTEW going to quarterly payments - the social justice arguments - apply to those residential landlords. I urge the Government to give consideration to quarterly payments for residential landlords only.

It is possible to put a threshold in there as well, but probably once you have quarterly payments it is better simply to say, "It is on residential properties and that is the way it is". The threshold system that is used in New South Wales has been raised in the debate here. I urge the Labor Government and the Chief Minister not to introduce a threshold system in the ACT but to leave the land tax the way it is. People who are investing in the ACT understand that there will be a land tax on residential investments, and that is how it should remain. I remind members that in New South Wales, when they talk about a threshold, they say that there are very few properties over, as I recall, \$170,000. One should remember that, if a landlord owns three or four properties in New South Wales, their values are combined. Even though the three properties might be worth \$60,000 each, the landlord is still liable for the land tax because he has over \$170,000 of investment. That is another issue. Let me clarify my position by urging the Government not to consider a threshold as an option but to continue the way we are.

When this tax was introduced there were incredible forecasts made about the very small number of rental properties - that there would be a starvation in the rental property market, and so on. Exactly the opposite has come to pass. The other point to recall is that we have a situation where landlords are making considerable savings, thanks to the drop in interest rates. That drop at least compensates them for the taxation that has been levied in this area.

11 August 1992

The final point I make is about an issue raised by the Chief Minister with reference to commercial properties. She said that the value of commercial properties has dropped and that therefore the big landlords are making considerable savings. Perhaps we should look at changing the commercial rate so that those savings are not entirely taken by the landlords but come back to the community as a whole, particularly if those savings are not being passed on to tenants. One of the problems in the ACT is that commercial tenants who are trying to establish businesses are often in very difficult circumstances, and innumerable examples have been given in this Assembly of the difficulties commercial tenants have with landlords. If it is such a good time for commercial landlords, it might well be an opportunity to use a lever and say, "Are you passing on some of these savings to your tenants or are we going to extract some of the savings ourselves for the community at large?"

MS SZUTY (3.56): Madam Speaker, I will not take too long, so that other members have a chance to speak on this matter of public importance. The Leader of the Opposition has raised an appropriate issue for a matter of public importance in pointing out the inefficiencies of the Government and its slowness to act to improve its administration of land tax. I support the principle of a tax on land and would be prepared to consider its wider application in the future. However, the administration of such taxes needs to be both efficient and flexible, to avoid the unexpected results that have arisen out of the current Rates and Land Tax Act.

Many people have been asked to pay land tax because of arrangements which have been in place for some years, including placing their home in a company name or in the names of their children, or because of provisions stipulated in a will. Many people appealed when they were first confronted with a land tax bill last year; but in at least one case I am aware of it was eight months before a determination was made, leaving the people involved with only a few weeks to meet two land tax bills as well as their annual rates. This is not good enough.

On 30 June this year, after there had been a public outcry over the inflexible application of the tax, the Commissioner for ACT Revenue, Gordon Faichney, reiterated the position that there would be no exemptions for these people unexpectedly caught in the land tax net. In an article in the *Canberra Times* of that date he referred to one of these groups of people - those whose residence is owned in a company name - but said:

We are not going behind the reasons people put their properties in the name of a company.

The article implied that there would be no exceptions. However, I am pleased that the Chief Minister finally provided a stamp duty amnesty to allow this group to transfer their properties into their own names. Nevertheless, we are entitled to ask: What has been the reason for the delay to date? For at least eight months the Government has known that there were unexpected consequences of the Act and the Treasury could have been advising the Treasurer that problems existed and that remedies needed to be found.

I accept the commissioner's premise that people who place their homes in company names often do so for tax purposes. But it is not the reason in all cases; nor does it completely cover the range of people affected by the tax. For example, in the Chief Minister's amnesty she has included people who have lifetime occupancy because of conditions set down in a will. There must have been at

least a few of these cases presented to her for them to be included in the list of exemptions announced on Friday. Even given the Treasurer's statements on land tax arrangements, there will still be cases where some individuals are disadvantaged. I cite one instance where a property was placed in the names of a woman's children because of her poor health. Thankfully, she recovered; but her children are now in the situation where they own the house, derive no benefit other than providing their mother with a home, and are not part of the company, nor are they subject to the provisions of a will. These people cannot seek relief under the new arrangements.

Why has it taken so long for the ACT Government to respond to these anomalies? How can it be that the solutions offered 12 months after the introduction of the tax still miss some of the people affected by unintended consequences of the Act? I welcome the Government's moves to offer relief. However, the views expressed only a few weeks ago by the Commissioner for ACT Revenue indicate a hard-nosed attitude and offer no hope that the remaining cases of hardship will be looked upon sympathetically. The land tax arrangements currently in place came into being for the 1991-92 financial year and then bills were accompanied by explanatory notes setting out land tax arrangements. No such explanatory material was sent out with this financial year's bills.

As I have stated earlier, I have no argument about the imposition of land tax per se. However, from the point of view of a public relations exercise alone, the administration of the land tax could have been handled much more competently. It seems to me that, if the ACT Government wants to continue to raise revenue from the ACT community, it needs to do so with a maximum of goodwill, sensitivity and flexibility, and to prevent as far as possible anomalous situations arising from the imposition of land tax.

MR CORNWELL (4.00): Madam Speaker, I would first like to declare an interest in this subject, and to raise a concern, as far as I personally am concerned, with an interjection made by the Chief Minister, who I note is not present, that the people on this side of the house are "landlords to a man". I am quite prepared to declare my interest because I made note of it in my member's declaration. I know that this is held by your good self and that, if it were released to anybody, I would be informed. That has not been the case on this occasion and I sincerely hope that the Chief Minister will explain the meaning of the interjection she made in relation to members on this side of the house - that we are "landlords to a man".

The land tax changes have been very badly put together and clearly have not been thought out. We see the evidence of this today in the four amendments to the original proposal. At least two of those matters, and Ms Szuty has referred to one - life tenancy under a will - were self-evident and should have been known to those who drew up this land tax in the first place. However, the land tax goes further in its unsatisfactory features. As we heard in question time earlier, there is no pro rata provision and, according to the Chief Minister, there is no intention of providing opportunities for pro rata payments of this tax. She is not in favour of quarterly payments of the tax and, as we all know, there is no threshold for the tax.

I fail to see how, therefore, she can claim that this ACT land tax is regarded with esteem by other taxing authorities around Australia. That may be the case, for we all know that taxing authorities are often very rapacious. But I do not know that it would have the support of people around Australia, any more than it has the

11 August 1992

support of people in the ACT. I would think, in fact, that the introduction of this land tax and its methodology probably owe more to administrative convenience than to what I would regard as social justice or equity.

The net effect of this tax and the way it has been introduced has, I believe, been to force up rents in this Territory. When it was introduced initially last year it was done without prior advice. It was mentioned in the newspapers at the time that the land tax would lead to a cost to a landlord of approximately \$10 per week. I think that has probably been passed on to the tenants in most cases. However, I suggest that it is not just a matter of that \$10 per week being passed on. Because it was unexpected, there is the possibility that, when rents were to be renegotiated for rental housing, the increase may not have been \$10 per week; it may well have been \$20, as the landlord attempted to cover the following year's land tax as well.

I do not think this is a desirable situation. The fact that interest rates have dropped just recently, as Mr Moore mentioned, is simply fortuitous. It really has nothing to do with the land tax situation. Furthermore, Mr Moore, I would suggest that, as landlords have been adding this on when they take account of this expense, they would have built that into the purchase of a house for investment purposes when they decided to let out the house. There is no real saving to anybody, least of all the tenants that this Government purports to be concerned about.

I believe, however, that it is not even equitable. Indeed, the evidence of that is the Chief Minister's own statements in reply to a question from Mr Kaine on 12 September 1991. Mr Kaine suggested that Housing Trust tenants who were non-rebated tenants were a new elite class of tenants who would be shielded from the net effect of the rent increase that flows from this one per cent increase in land tax. The Chief Minister responded that that was not the case because Housing Trust rents were set at market levels. Subsequently, Ms Follett attempted to explain to me that she did not actually mean that. This was in response to a question I asked on 17 June this year.

Mr Kaine: Is this a case of "read my lips"?

MR CORNWELL: That is right. Ms Follett said:

... Housing Trust rents are set at market levels for those properties, not for other properties. Mr Cornwell ... is not comparing Housing Trust properties with other replicated Housing Trust properties; he is comparing Housing Trust properties with a median of the whole market, I presume.

Of course I am. Indeed, back on 12 September the Chief Minister confirmed this when she said, and reference to page 3248 of *Hansard* will confirm this:

I say again that Housing Trust rents are set at market levels. I presume that that means they reflect the general market for rent in our community.

So we do not even have an equitable land tax, because this Government is not prepared to build it in so far as its own non-rebated Housing Trust tenants are concerned. So much for the potential revenue forgone that Ms Follett was speaking of earlier.

As for the question of exercising discretion, I have no doubt that that option exists so far as the department is concerned. Whether or not they do it, however, remains to be seen. The fact is that, in my experience, even though the department have the opportunity to exercise the discretion, people do not have much faith that the department will exercise it. It is a time-consuming activity.

We all know, as the Chief Minister herself has said, that if you wish to go through the AAT to challenge the land tax it is going to cost you \$240. That is probably a little below 50 per cent of the average land tax that is being levied right now by this Government. Therefore, people would think twice about whether or not they were prepared to invest that sort of money. I do not know that it would be such a sensible idea to put forward 50 per cent of the cost of your land tax on the off-chance that you might win. I suggest that, with the way the Government is approaching this question at the moment, the chances of winning are not very good.

Finally, may I say that, in answer to the question I asked earlier today, the Chief Minister has very clearly indicated that the one thing you do not do in terms of purchasing property in this city is to buy it after 1 July. You will obviously have to buy it before 1 July, or perhaps before 30 June. I do not know what that is going to do to the housing market. But it is very obvious that, if you buy a property before 1 July, you are going to be hit with the land tax; if you buy it after 1 July, presumably the seller is going to be up for it. That should lead to some very interesting situations in the marketplace. It once again demonstrates the inflexibility and the incompetence of this Government and its advisers in producing this quite iniquitous and draconian tax, as the Leader of the Opposition has said. It is certainly not social justice. It is not even equitable.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.11): It always causes a certain wry amusement to hear the gaggle of Tories opposite talk about social justice in relation to taxation measures. These are the people who want to tax milk and bread, who want to cut taxes on Ferraris and French champagnes, and who carry on about this being terribly inequitable because we are not giving tax breaks for people whose house is held in a family trust holding company with a unit share transaction based in the Cayman Islands. These are the people who traditionally stand for sorting out taxation to benefit the wealthy, to benefit the well-off. They are obsessed here with a tax on rental properties, on second houses, and they are quite gleefully accepting their Federal colleagues' proposition of taxing everything. We heard a lot about taxes on widows. I hope you are equally appalled at the prospect of that widow paying tax on everything she buys at the supermarket with her social security pension. With every purchase she makes she will pay tax, under your mates' proposal.

I heard a very interesting critique of this tax recently on ABC radio from Mr Jansen, who is the president of the Landlords Association and was a Liberal Party candidate some little time ago. He admitted to the ABC radio interviewer that some landlords were engaging in rorts and ruses to avoid this tax. There was one particular scheme being floated around the place whereby the renter would take some sort of sham equity in a property - a one per cent pseudo equity - so that it would no longer be a rental place and you would avoid the tax. I remind members to be very sceptical when they hear the Liberal Party talking about social injustice. We also should be sceptical because of the tales of gloom and doom they were spreading around the community last year when this tax was

11 August 1992

first introduced. We were told then by the Liberal Party that it would be the end of private investment in the Canberra housing market. It would be the end of private tenancies. You would not be able to find a private investment property in Canberra because we were forcing private investors out of the Canberra market. As they know, because I set it out in answer to question on notice No. 27 from Mr Cornwell, that is absolutely not what happened. In August 1991, just before this tax was introduced, investors made up some 11 per cent of activity in the home purchase market in Canberra. In February 1992, when the tax was in place, when the Libs had been belting this for all it was worth during the election campaign, investors accounted for 25 per cent of all residential properties - a much higher rate of activity.

The housing market in Canberra as a whole has been booming along very nicely, thank you very much, since this Labor Government came into office, to the point where the Housing Industry Association put out a press release recently warning against an overheating of the home market in the ACT, saying that it was going along too strongly. So the rate of investment has increased. More investors are entering this market than were entering it 12 months ago - directly opposite to what you said would happen. You people said that the vacancy rate in the ACT would fall to virtually nothing. Again according to the Real Estate Institute of Australia, *Market Facts*, issued on 31 July 1992, the vacancy rates are now 3.4 per cent - one of the healthiest rates for quite some years. The generally accepted healthy vacancy rate for a balanced market, the industry says, is 3 per cent. So we are almost verging towards an oversupply of private rental investment properties in the ACT - directly opposite to what these people said last year would happen.

Madam Speaker, they simply cannot be taken credibly. In the time that rents have gone up, the average investor in a \$100,000 investment property has had a benefit of something like \$7,000 a year as a result of reduction in interest rates. None of that, not one cent of it, has been passed on to tenants. Investors in rental property take what the market will bear. That is always the case. That is the nature of this market. The movement in prevailing market rates has not varied in this market from that in any other market. It varies depending on vacancy rates, and - surprise, surprise - now that vacancy rates are getting higher, the movement in the prevailing level of rent, which is shown again in *Market Facts*, is easing back. But there was no passing on to renters of that enormous gain - \$7,000, on average, on a \$100,000 investment property - that investors have taken because interest rates have fallen. They have claimed that they have had to pass on rent increases to tenants. They have not passed on savings, and that is hardly fair practice.

MR STEVENSON (4.16): Madam Speaker, I believe that the time allowed for the MPI has expired. I therefore move:

That so much of the standing and temporary orders be suspended as would prevent discussion on the matter of public importance from continuing for a further 20 minutes.

I know that there are a number of speakers still to come on this matter, which is indeed important.

Question resolved in the affirmative, with the concurrence of an absolute majority.

MR STEVENSON: Mr Connolly, do you want to continue for a while?

Mr Connolly: No, I will not. Mr Cornwell and I split our time equally, so we had enough time. This is an extraordinary practice, but it is all right.

MR STEVENSON: Mr De Domenico wants to speak as well.

This is indeed a matter of public importance. I think there are two major and different aspects that we have been talking about. Some people make a genuine commercial decision to buy property other than their main place of residence. However, as some members have said today, there are many other people who have not done that and who have been pulled into this commercial net, and that is where the major concerns lie.

I would like to extrapolate a little on the case Helen Szuty mentioned of an 83-year-old lady. In 1978 she came to live in Canberra because her daughters were here; she purchased a property in Canberra. In the early 1980s she became seriously ill and was very concerned for her welfare, her future. She signed across the ownership of the home to her two daughters. Fortunately, she recovered; but now the daughters are in a situation where they are liable to pay the land tax. They asked for an exemption; but that was not granted, presumably because there was no latitude to grant an exemption.

When we talk about social justice, we want people to accept responsibility for themselves and their families wherever they can. Some 36 years ago this woman's husband died. At that time they did not own a home. For a long time the woman went without what many of us would consider normal benefits such as yearly holidays, social activities and other things. She did without those things to save the money to buy a home for herself and her family. Without a husband, she did that. During this time she was always extremely careful to make sure that she also put money into superannuation so that she would not be an unnecessary burden on the rest of society.

Basically, we have a situation where she did everything right. Yet now, through no fault of her own, she is a life tenant in what was her home but which, because of her illness and her great concern that she might die, she signed over. It has been suggested to the family that they could sign the home back to their mother. I ask the Chief Minister to look also at the possibility of allowing an exemption from stamp duty, at least, if that is done. I personally think a better idea would be to allow people to remain in those situations.

Many of these decisions truly are not commercial decisions. I have had a long-term goal to buy a place for my mum. She is a pensioner and lives in a Housing Commission home in Sydney. I would love to buy a place for her. I have never given that consideration as a commercial decision. She has done so much for me that it would be a wonderful thing to do. She particularly loves to be near the water, and I would love to do that for her. Once again, that would not be a commercial decision. That would be a situation where the taxpayer would no longer have to pay for the upkeep of my mother.

In another situation someone may own two properties - a flat in the city and a property further out of Canberra. There may be some reason for that, health or otherwise. This is hypothetical; nevertheless it is valid. That place is not a rental property. To suggest that people have a potential to earn income from it is not fair. It is not the potential to earn income that we should be taxing. It may be

11 August 1992

more reasonable to tax the earning of income, but not the potential to earn income. When we say that the land tax will be levied on rental properties which are not the principal place of residence of the owner, the key word is "rental". Many of these places are not rental properties, and to impose this tax on them is not fair, it is not just, and it does not encourage people to look after themselves and their families. Someone may buy a property, instead of taking out superannuation, to look after their old age. I have thought about that. You could live in one half and rent out the other half, to make sure that you did not need to take a pension and other things like that. Is this to be commended and encouraged, or is it to be penalised? I think these are unintended consequences; nevertheless there are many cases.

It has also been suggested that the tax has not discouraged people from owning rental properties. It has to. When you penalise people, it simply has to discourage them from buying rental properties in the ACT. It may not discourage them from buying them in Queanbeyan or elsewhere. So, overall it may not discourage people, but we are talking about the ACT. There are clearly problems with this legislation. We need to look at why this has come about. There are unintended consequences. Why do we have unintended consequences of legislation? Mr Kaine referred to the problem earlier: The Bill was put through rapidly. There was not time to look at the situation of a threshold. Would there be a benefit from a threshold in Canberra? Would that cause major problems with the revenue? Mr Kaine said that he was not able to have the time to make that determination.

We truly need to be concerned about how rapidly we put legislation through. An article on page 3, I think it is, of today's *Canberra Times* points out that it would be a good idea for the House of Representatives to put all legislation through a committee, to ensure that there are not unintended consequences of that legislation. What a good proposal that is. However it is done, it should be done. One of the ways in which it should be done is to allow us all enough time to debate the issues. It takes a long time. Even two or three months is not by any means too long to have a good look at legislation that can have unintended consequences that either inconvenience or gravely concern people.

I commend the Chief Minister for looking to handle some of the problems, but I ask whether they needed to happen in the first place. One point the Chief Minister mentioned was that we needed to look at the consequences of changing the one-year payment in advance, which could mean the loss of \$600,000. Some people might think the consequence would be a saving of \$600,000 by people in the community.

Some 70 per cent of people initially opposed this legislation, according to our polling. So there are many people that are concerned about it. I think they would be particularly concerned about the anomalies we have heard about today. Is there any suggestion that we have heard about the lot? Of course not. There must be dozens and dozens of people worrying. Mr Kaine mentioned earlier the simultaneous imposition of land tax and rates - - -

Ms Follett: That has been changed.

MR STEVENSON: The Chief Minister says that that has been changed, and that is excellent. Let us say that we are talking only about those people that have made commercial decisions. They want to make money from owning properties.

We are asking them to pay us money one year in advance when they will not have any income one year in advance. Is that a fair situation? If we want some of the money they receive from rental property, is it not reasonable to say, "When you get it, we will have it", or at the very least, "We would like to take it three months before you get it"?

MR DE DOMENICO (4.27): Madam Speaker, it is my job purely and simply to sum up what has been said this afternoon. First of all, I compliment Mr Stevenson for the very concise ideas he put forward. I welcome his contribution to this debate. Mr Connolly and others on the Government side of the Assembly tend to knock, knock, knock people who attempt to look after themselves. Reality tells me that it may be easier for someone to invest in Queanbeyan, where the threshold is \$165,000, than to invest in the ACT, where the threshold is nothing; and in fact that is what happens.

If anyone doubts what various people think about the imposition of land taxes and the whole concept of land taxes, let me quote from the *Sydney Morning Herald* of 18 February 1992. This is not a right-wing apparatchik of the Liberal Party or a so-called landowner or whatever; I quote an ALP spokesman in New South Wales, Mr Michael Egan, who I think is in the same faction as the Chief Minister. The article says, "Mr Egan described land tax as a crippling burden for thousands of small investors". He went on to say, "Land tax is a direct tax on housing and on small business". Let us get it straight. It is not only people on this side of the house who consider land tax to be "a crippling burden".

Mrs Grassby: It is only oppositions that do it.

MR DE DOMENICO: It is only oppositions, Mrs Grassby says. One wonders, therefore, whether Mrs Grassby will disalign herself from the comments made by Mr Egan. Is there no answer from Mrs Grassby? Okay.

Mrs Grassby: I disalign myself from him because I think he is wrong.

MR DE DOMENICO: You disalign yourself from him. Thank you, Mrs Grassby. Let us listen to some other prominent people in the community. Mr Egan perhaps is not worthy of being listened to. I tend to agree with Mrs Grassby, by the way. No-one has heard of Mr Egan. Let us see what Daryl Dixon said. Daryl Dixon, as you know, is a well-respected economist and commentator in the media and elsewhere in this town, and someone who has the respect of people from both sides of the house, I dare say. In the *Canberra Times* of 18 August 1991 he said:

For the Government to try to justify the tax on the grounds that the landlord will get a tax deduction for the land-tax payment is an attempt at blatant deceit -

I emphasise that -

because the persons paying the tax will be the tenants.

We keep hearing from this Government that they have a monopoly on social justice. Where is the monopoly on social justice when it is the tenants, quite rightly, that are going to be paying this tax? Ironically, Mr Connolly, who is not here, made grandiose statements about Liberals and Tories on this side of the house. He did not mention the fact that there had been 15 per cent increases in some rents for the people that can least afford it.

11 August 1992

Let me give some more recent quotes - because people might say that August last year is a bit of a problem. Let us look at the *Canberra Times* of 31 July. Once again, we are told that the only people we are trying to protect are our Tory mates, these big commercial landlords. What about the 70-year-old pensioner who has been hit with a \$910.83 bill for land tax, even though she lives in the townhouse on which the tax has been charged? The people on the other side of this house try to convince everybody that they have a monopoly on social justice; but this is a 70-year-old pensioner, for heaven's sake, not a corporate apparatchik from this side of the house.

The Chief Minister, in a press statement issued last week, said that the Government would extend the current exemption available to people compulsorily transferred for employment reasons. I asked the Chief Minister, at question time this afternoon, how many people had appealed against the application of the tax - that is another thing we need to talk about - on the basis of absence for work-related reasons; that is, people who are compulsorily transferred out of Canberra by their company, or people who have to leave this town because they cannot find a job here but can find one in Adelaide. If you leave the kids in the house while you go and earn a dollar to feed them, what does this Government do? It slugs you for land tax. You apply to the commissioner, who has these incredible powers to override anything. He knocks you back because, he says, he cannot do it. That is what social justice is all about, we are told by this Government.

Land tax is an inequitable tax. That has been said by the Opposition - and we will continue to say it - by Mr Egan from the Opposition Labor Party in New South Wales, and by Mr Daryl Dixon. Hundreds and hundreds of people have written to the Opposition and to members opposite complaining that this land tax is based on legislation which is very shoddy, to say the least. The Chief Minister agrees that it is shoddy. But what does she do? She does not come into this house and move amendments to fix the legislation. She criticises the Opposition, though, for pointing out to her that the legislation is shoddy. It is no excuse to say, "Oh, we have had three or four or five or six letters over the past week or so". This legislation has been on the books for nearly 12 months. Does it take that long for people to realise that legislation is shoddy?

The point is that the Government has been made to look shallow. It has been made to look at its double standards by the community of the ACT because of their direct concern about what is happening to them on a day-to-day basis, by the very people this Government purports to represent. Secondly and more importantly, it has been made to look at its double standards by the Leader of the Opposition, who publicly expressed the views held by a number of people in this community. Only then did the Government back-pedal. It would not have known what to do had the people on this side of the house not told it what to do.

MRS GRASSBY (4.33): Madam Speaker, I know that there is only a short time remaining, but I would like to take the last few minutes to say that I have never heard so much hogwash in all my life. As the Chief Minister just said, the land tax is one per cent, and we just heard Mr De Domenico say that some of the rents have gone up by 15 per cent. I think people have failed to realise - and I know this because I have paid it in New South Wales - that you also get a Federal tax deduction for land tax. It is a cost incurred when you are receiving rent. As for the business, I hope people realise that you get the tax back. You also have your

15 per cent on the rent; you get that back too. Talk about greed! The greed of these people is unbelievable. They are never satisfied. It is complete greed. Not only do you put the rent up 15 per cent, but you also get all that land tax back on your Federal tax.

As for what Mr Stevenson said about the lady who gave her house away, she gave it away so that they would not have to pay anything when she died. You cannot have it both ways. You want it coming and you want it going. It just does not work that way; I am sorry.

MADAM SPEAKER: The time for the MPI has expired.

ADMINISTRATION AND PROCEDURES - STANDING COMMITTEE
New Assembly Premises Inquiry

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

That the resolution of the Assembly of 9 April 1992, concerning the reference of a possible new premises for the Assembly to the Standing Committee on Administration and Procedures, as amended on 19 May 1992, be amended by omitting "at the latest by the first sitting day of the Budget Sittings" and substituting "by 8 September 1992".

PLANNING, DEVELOPMENT AND INFRASTRUCTURE -
STANDING COMMITTEE
Report on New Capital Works Program 1992-93

MR LAMONT (4.36): I present report No. 4 of 1992 of the Standing Committee on Planning, Development and Infrastructure on the 1992-93 new capital works program, together with a copy of the extracts of the minutes of proceedings. I move:

That the report be noted.

It gives me great pleasure as chair of the Planning, Development and Infrastructure Committee to present this report. May I say at the outset that it would not have been possible without the exemplary cooperation of my committee colleagues - the deputy presiding member, Mr Kaine, members Ms Szuty and Mr De Domenico, and last but not least, my parliamentary colleague Ms Ellis.

Mr Kaine: A great speech. You can sit down now. Do I get a chance now?

MR LAMONT: No, I am sorry, Mr Kaine. There is an order of precedence, even in this Assembly. Madam Speaker, the recommendations contained on page 4 of this report are substantial and, I believe, in a number of cases provide a useful insight into recommendations the ACT Administration should adopt in future capital works programs. I will briefly go through those. In the first

11 August 1992

recommendation, at paragraph 3.5, the committee is suggesting that a modest increase in the capital works budget may be fiscally responsible. We ask that the Government consider that recommendation in the framing of its budget proposals.

An equally important recommendation is recommendation 5, at paragraph 3.15 of the report - that the concept of through life cost liability be applied to the ACT capital works program, beginning with the program in 1993-94. The reason the committee has arrived at that position is quite simple. We believe that it is appropriate that this Assembly, and indeed the Government, have an estimation of the total actual cost for undertaking any particular capital works through the life of that asset. We have arrived at this position because of a recommendation in a submission to the committee by an individual member, suggesting that a particular new construction process for bus-shelters, while being more cost-efficient in the initial construction, might lead to additional cost down the track as far as repair, service and maintenance are concerned. Following extensive discussion within the committee, the committee unanimously arrived at recommendation 5, at paragraph 3.15.

There are a number of other substantial recommendations, and I will touch briefly on some of them. We believe that the Federal Government has left an asset base in Canberra sadly lacking in repair and maintenance. That was brought to our attention by the significant cost to the maintenance budget of a stormwater drain in Tuggeranong. That stormwater drain had been constructed for less than 15 years but now requires considerable outlays by the ACT Government because the asset was not adequately maintained during the Federal Government's stewardship of assets in the ACT. We also suggest that a minimum period of 10 weeks be given to the PDI Committee for consideration of the capital works program, to ensure that there is adequate public consultation.

The format in which this report appears will be consistently the format in which such reports appear in future. I draw to your attention that this is the first time in the history of this Assembly that a printed and published report such as this has been the basis for the presentation of the capital works program investigation by the PDI Committee. We were able to do that because of the sterling work undertaken by Greg McIntosh, the secretary to the committee. I place on record on behalf of the committee my appreciation for the sterling work Greg has undertaken and for the dedication he shows to ensuring that the committee is properly briefed and that the submissions that are forthcoming, particularly during this program but also at other times in the committee's work, are attended to and given appropriate weight. I cannot sing Mr McIntosh's praises highly enough, and I personally would be disappointed if Mr McIntosh were ever to decide to seek other employment.

That is a brief overview of this report. It contains a run-down of the specific programs dealt with in the capital works budget. It also attaches as appendices a list of written submissions, a list of witnesses, and the draft capital works program for 1992-93.

MR KAINE (Leader of the Opposition) (4.40): Up to a point, I am happy to support Mr Lamont's comments in connection with this report, particularly his comments about the way it was put together by the members of the committee. I do not think we had a single fight, actually. I also compliment the committee clerk on his work.

There are some other aspects of this report, however, that I think are deserving of comment. The first is to note that the capital works program is merely a part of the budget for the year 1992-93, and all of the expenditure planned here will reflect in the budget when the Government brings it down shortly. The Government a few months ago announced that it would bring forward some capital works projects from this year and next year into last year as part of their program to maintain employment. I think it was claimed that it would generate employment, but I doubt that it did. In the event, it probably merely maintained the work force that was then in place. It was probably going over the top a bit for the Government to claim that it was creating new jobs by bringing those projects forward.

When you bring forward significant dollar value projects and maintain a level of capital works that was previously unplanned, it has its effects on subsequent years' capital works programs. I imagine that what the Government is attempting to do here is to maintain its capital works program at a level consistent with that which was generated last year. If it does not, there will be a loss of jobs, and in today's world it is, I believe, a responsibility of government to use its capital works program at least to ensure maintenance of the existing work force, if not to enhance it. This has to be seen in the context of the maintenance or perhaps the expansion of the work force. In that respect, the recommendation from the committee that the Government should consider an additional \$15m worth of expenditure in the capital works program is something the Government needs to take account of. I know that the Government has a real budgetary problem. They started off with a \$70m-plus budget gap, which they are trying desperately to fill. We will be waiting with great interest to see how they do that.

It must therefore be very difficult for them to accept that this committee is recommending that they should spend another \$15m, which is \$15m they have to get from somewhere. The traditional source of money for capital works, of course, is borrowing. Dr Tomlinson from ACTCOSS will probably be quite uncomfortable with the fact that he and I are on the same side on this issue. I say what he has already said publicly: The Government should consider additional - and I insert the word "prudent" - borrowing to enhance the capital works program, with the specific objective of making a contribution to the employment situation in the ACT. That is something the Government has to give very serious consideration to. I do not know how much they are planning to borrow. I could put a figure on it, but I will not. Prudent additional borrowing to enhance the capital works program with employment in mind is not something the Government can lightly shrug off in today's world.

In that connection, there is a recommendation that the ACT Government should put some pressure on the Commonwealth to get one or more of the projects started that they have been talking about for years. At the top of that list is the Museum of Australia. There is the refurbishment of the old Parliament House and its conversion to some practical and productive purpose. There are others:

11 August 1992

The development of York Park; the construction of a building for the Taxation Office; even, dare I suggest it, the construction of a building for the BMR. Let us sort out that argument as to whether there is or is not going to be a BMR and whether it is going to be in Canberra or not. I think the Commonwealth has an obligation, just as the ACT Government does, to make its contribution to the continued level of employment in the ACT.

Apart from that, there are some significant proposals here. It has been noted that the biggest one of them is the system for the Supreme Court and the magistrates courts, to provide proper accommodation for them. But there are others. There is some \$20m for further road and other associated development in Gungahlin. Interestingly, associated with that is the provision of \$4.4m for the extension of Ginninderra Drive and the water main to allow further development into West Belconnen.

On that point, I would exhort the Government to rethink its removal from further development of large areas of West Belconnen. Mr Wood, I am sure, will be most interested in the debate that has been going on lately about the cost of land - the proposition that land in Gungahlin is going to cost \$65,000 and that there is not going to be any cheap land any more. The whole idea of the West Belconnen development was to provide an alternative source of lower cost land. That is why it was proposed in the first place. Yet this Government, with its backing and filling on whether it likes or does not like urban infill and consolidation, has written out a very large area of West Belconnen from development. I think they should write it back in and ensure that for the next five to 10 years there will be an alternative source of land at reasonable prices, as compared with the \$65,000 a block that is being projected for Gungahlin. I hope Mr Wood is storing my comments away for future reference.

There are one or two other significant projects in here, such as the Conder primary and preschool at just over \$7m and a hospice at \$3m. I hope the Minister for Health thinks very seriously about that hospice and puts it in a place where it ought to be - rather than in some backwater which will be very difficult for people to get to - and where the patients will have access to the medical facilities they require when they are in a hospice. I hope that the hospice goes ahead very quickly and that it is not still on the agenda this time next year and we are still talking about it instead of being able to see it on the ground. There is \$2m for the essential replacement or refurbishment of Quamby. That is long overdue. Another significant one is the creation of police "ACT Region Headquarters and North District Police" at a cost of \$7m.

There really are some quite significant projects here, all of which are needed, all of which should go ahead quickly. They do raise questions about government policy and suggest that perhaps there ought to be some rethinking about aspects of government policy in connection with the planning and further development of Canberra. I believe that, if this one goes ahead, it will not be a bad capital works program. It will be an even better one if the Government agrees to supplement it with an additional \$15m. That will at least ensure that a few people retain their work in the ACT, even if it does not enlarge the work force.

MS SZUTY (4.49): I am pleased to endorse the report of the Standing Committee on Planning, Development and Infrastructure on the capital works program for 1992-93. The committee has recommended, as both Mr Lamont and Mr Kaine have said, that the ACT spend an extra \$15m on additional capital works. This expansion of the capital works program will create more job opportunities at a time when unemployment, especially youth unemployment, in the ACT is increasing, and will enable the spending of moneys both to maintain community assets and to improve the landscape environment in the ACT.

As the committee has recommended to the Government that it spend these additional moneys on the refurbishment of school buildings, playgrounds and community centres, the community will see real returns from the expenditure and, hopefully, reduced deterioration rates of these assets in the future. The community would also welcome additional expenditure to be committed to maintaining and enhancing the quality of the urban landscape environment in the ACT, as advocated by the Australian Institute of Landscape Architects, emphasising our reputation as the bush capital.

The committee has also drawn the attention of the ACT Government to the role of the Commonwealth, emphasising that decisions need to be made quickly on projects such as the refurbishment of the old Parliament House and the establishment of the National Museum of Australia. As a consequence of the Commonwealth Government's neglect of major infrastructure in the ACT, significant moneys have been allocated to the upgrading of the courts complex. The committee noted also that the ACT will be spending more moneys than anticipated on the upgrade of works previously completed under the auspices of the Commonwealth; for example, \$450,000 on stormwater channel reconstruction in Calwell.

The committee has also made a number of recommendations on the process and conduct of the capital works program inquiry. Full and complete documentation from government departments, including details of the nature and extent of public consultation, the application of an analysis of through life cost liability and an appropriate timeframe for the committee's consideration of the capital works program will improve the process in future years. I wish to record my thanks to the many participants in the inquiry, through their submissions and contribution to the public hearing process, including both representatives of various groups and organisations and departmental officers.

Debate (on motion by **Ms Follett**) adjourned.

**PLANNING, DEVELOPMENT AND INFRASTRUCTURE -
STANDING COMMITTEE
Report on Draft Variations to the Territory Plan - Kambah and Barton**

MR LAMONT (4.52): Madam Speaker, I present report No. 5 of 1992 of the Standing Committee on Planning, Development and Infrastructure on the draft variations to the Territory Plan, Kambah, section 346, part blocks 18 and 19, and section 353, part block 8, the Burns Club; and Barton, section 17, block 1, the Barton Cafe; together with a copy of the extracts of the minutes of proceedings. This report was provided to the Speaker for circulation on Friday, 7 August 1992, pursuant to the resolution of appointment. I move:

That the report be noted.

11 August 1992

These are two very simple amendments to the Territory Plan, accepted unanimously by the PDI Committee. The first is a change to the land currently occupied by the Burns Club in Kambah. The variation will require substantial spillway works to be carried out by the club to allow the rearrangement of the amenity of the blocks I have outlined. Basically, what it will mean is that the cost will be met out of the cost of the additional land that will be provided to the Burns Club. I again congratulate my fellow committee members for the expeditious way in which they conducted the inquiry into this variation. I also wish to place on record our appreciation to the executive and managing director of the Burns Club, who appeared before the committee.

The second proposal is to provide for - I will use the generic term, if I may - a strata title arrangement in relation to the purpose clause for the Barton Cafe, that well-known Canberra institution which has provided succour to a whole range of people. That does not mean that Mr De Domenico has been provided on the site, although that could be one interpretation. It has been deemed appropriate that the purpose clause for this site be varied to allow for a particular title to be given to the Barton Cafe, with a purpose clause reflecting the nature of the business undertaking on that site. I commend the report to the Assembly.

Question resolved in the affirmative.

**LAND (PLANNING AND ENVIRONMENT) ACT - VARIATIONS TO
THE TERRITORY PLAN
Papers**

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning): Madam Speaker, this is the way the Assembly now works, after amendments to the planning legislation last year. I now go through the process of tabling the Executive's response. For the information of members, I present approvals of variations to the Territory Plan for Kambah, section 346, part blocks 18 and 19, and section 353, part block 8, the Burns Club; and Barton, section 17, block 1, the Barton Cafe, pursuant to section 29 of the Land (Planning and Environment) Act 1991. In accordance with the provisions of the Act, these variations are tabled with the background papers, a copy of the summaries and reports, and a copy of any direction or report required.

**ESTIMATES - SELECT COMMITTEE
Appointment**

MS FOLLETT (Chief Minister and Treasurer) (4.56), by leave: I move:

That -

- (1) a Select Committee on Estimates 1992-93 be appointed to examine the expenditure proposals contained in the Appropriation Bill 1992-93;

- (2) Ms Helen Szuty be appointed Presiding Member of the Committee and the Committee also comprise such other Members of the Assembly who notify their nominations in writing to the Speaker by 13 August 1992;
- (3) 3 members of the Committee shall constitute a quorum of the Committee;
- (4) the Committee report by 6 November 1992;
- (5) if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing and circulation; and
- (6) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

I am sure members know that the Estimates Committee process is a very important one to enable members to scrutinise the Government's estimates of expenditure, to quiz Ministers and public servants on the expenditure patterns, and to report back to the Assembly on their findings.

I have proposed in this motion a committee of the whole, to give all members of the Assembly an opportunity to take a full part in the Estimates Committee processes. Members who have been around for a while will know that we have tried both systems - having a committee of the whole and having a committee of a set number of members. It is my view that the committee of the whole works much better, for a couple of reasons. First of all, it enables all members to take part. Secondly, it enables members, in what can be a very lengthy and difficult process, to take up those issues in which they have a particular interest without having to sit day and night in a committee in order to maintain a quorum. I commend the committee of the whole system to members. Members will also see in the motion that three members will constitute a quorum. I think that is a workable number and will enable the committee examination to proceed in an orderly and scrupulous fashion.

I have also included a provision that the presiding member of the committee be Ms Szuty, and again I commend this part of the motion to members. Ms Szuty, apart from her sterling qualities, of course, and the great thoroughness she has demonstrated in all the work she has done in this Assembly, is one of a tiny number of members who currently do not have responsibility for chairing a committee. I therefore feel that, in the interests of spreading the workload and in the interests of fairness, it is appropriate that Ms Szuty be appointed by a motion of this Assembly as the presiding member of the committee. Madam Speaker, I commend the motion to the Assembly.

Question resolved in the affirmative.

Sitting suspended from 4.59 to 8.00 pm

11 August 1992

ANIMAL WELFARE BILL 1992
Detail Stage

Clause 4 and proposed amendment thereto.

Debate resumed from 24 June 1992.

MR MOORE (8.01): Madam Speaker, it is a shame that this proposed amendment to the Animal Welfare Bill came so late after the Bill was tabled in May this year. It is also a shame that the proposed amendment only singles out circuses and suggests an outright banning of "exotic" animals, and then only after it was first suggested to ban all animals, without looking at the species-specific needs and the possibility of creating sound codes of practice to be included in the regulations to ensure the welfare of all animals.

The arguments raging regarding the animals in circuses have largely been anthropomorphic or defensive. It is regrettable that the real issues have been clouded by this approach to legislation. Fundamentally, if the issue had been approached with an understanding of animal behaviour, I believe that we would have been more productive and the circuses probably would have felt less victimised. Before making decisions on cruel practice we must understand the social and environmental needs of each species, because what is cruel for one may not necessarily be cruel for another.

I sincerely hope that this issue convinces the Minister, Mr Wood, to make a very constructive contribution to the national conference on animal welfare. I hope that the ACT experience results in species-specific codes of practice being adopted as part of regulations throughout the whole of Australia; and I hope that it covers all operations, not just circuses. I presume that the debate tonight will, at least to a certain extent, focus on animals that are used in the racing system.

Codes of practice for the protection of animals have been developed to address animal welfare and protection in the rodeo industry, in national health and medical research, and in other areas. Coupled with an overseeing ethics committee, and where the codes are in the regulations and therefore enforceable, these codes have assured a standard of practice that is based on the needs of the animal. I hope that Mr Lamont is as excited about developing these codes of practice as he has been over the banning of animals in circuses. If he is genuine in his enthusiasm for animal welfare, no doubt he will put the same energy into developing those codes of practice as he has put into this issue on circuses.

What are the real issues? They are the protection and welfare of animals in our society, whether in circuses, on the back of a truck, in a zoo or wherever; and, secondly, perhaps, the education of our society through examples of what is acceptable and unacceptable behaviour. The moral arguments are strong for the latter issue, that is, whether or not it is healthy for a community to be shown submissive, trained, wild animals performing unnatural and behaviourally aberrant tricks, I would agree; but I also argue that it is equally unhealthy for us to be viewing gratuitous violence on our TV screens and in films. But do we legislate, or educate, or do both? Given that current opinion is changing as we become more educated on these matters, the circuses themselves must have to come to terms with the realities of a changing market; they simply will not continue to attract audiences if they do not adapt to conducting performances without exotic animals.

The arguments for the animals' welfare are the ones that must be concentrated on and are much more convincing and compelling. By their very nature, circuses are continually mobile. Therefore, exotic and domestic animals in their menageries are continually confined in cages. Accommodation provided for these animals is designed and provided according to the needs and convenience of the circus owners, not the animals. At least in zoos the animals have benefited a great deal over the past decade by animal behaviourists convincing zoo keepers to provide enclosures that reflect some of the basic social and environmental needs on a species-by-species basis. The zoo at Dubbo has been raised in this house before as a good example of that.

These things cannot be provided, in the main, by circuses. Lions and tigers are continuously kept in cages, not only for transportation but as part of everyday confinement. They are even trained in a cage. Elephants are transported in cages and, when out in the open, are tethered or hobbled. These animals are also subjected to the added stresses of frequent noise, movement and lights. Behavioural patterns observed by those animal behaviourists - not anthropomorphic emotionalists - indicate that these animals exhibit many forms of anxiety and disturbance. If one were to keep a dog in a backyard under these conditions, one would rightly be prosecuted and, under the current legislation, there would be room to do just that.

There are no animal welfare arguments for the retention of these animals in a circus. The circus, by its very nature, ensures an aberrant, confined, psychotic lifestyle for these animals. It appears that interactive animals, such as monkeys, baboons, donkeys, camels, et cetera, suffered less as they at least would have the company of other humans that they considered part of their animal group and were not so confined.

Mr De Domenico: How do we know? Did they tell you? Is this Michael Moore or Dr Dolittle?

MR MOORE: That is, they could be let loose in a paddock and could interact with others in their species as well as humans. They would be confined only when transported. These animals, some of which are exotic, are not suffering in the same way as large cats and elephants are; but their needs should be looked at in terms of accommodation. Instead of a Dr Dolittle working out what those needs are, it is appropriate that a code of practice, enforceable through regulations, be constituted on a national basis for the protection of these animals.

Abnormal behaviour, for instance, can result from a monkey being deprived of social interaction and challenges for its intelligence. The legislation for the welfare of all animals requires an understanding of their needs, based on factors related to social organisation and quality of environment, and an understanding of the needs of the specific species. Evidence from the RSPCA, ANZFAS and others has indicated that monkeys and baboons have been tethered and confined on their own in small cages for very long periods. If this is so, then those responsible ought to be prosecuted under the Act as it exists, for cruelty to animals.

If this practice with the current legislation has persisted despite threats of prosecution, then that particular circus should have its licence revoked. If these measures have been applied to no avail, then perhaps there is an argument for policing and enforcing this legislation more effectively. Whether the cruelty was

11 August 1992

towards a monkey or a domestic dog is irrelevant. We are not contemplating, nor should we be, that circuses owning any domestic pets be banned. We must keep in mind that the aim of the legislation is to protect the welfare of the animal.

In summary, it is a shame that primates have been included in the blanket exotic animal definition, as I believe them to be highly interactive and, provided with the basic requirement for that species, they are natural animals to cooperate with humans. Therefore, it seems to me that they ought not be barred from working in circuses, provided that an appropriate code of conduct can be developed and followed. As stated earlier, as far as I am concerned there are no convincing arguments for the retention of large cats or elephants in the circuses. The very nature of the circus - its mobility, its performance and economic requirements - works against the very basic needs of these species. Even if the circuses were committed to providing the most beneficial of circumstances for these animals, they would not be able to do so as they have no option but to confine and transport these animals incessantly. With that in mind, Madam Speaker, I now move, as an amendment to Mr Lamont's amendment:

Proposed new definition of "prohibited circus animal", paragraph (a), omit the paragraph.

The effect of that is to remove the word "primate" from the definition, so that circuses would still be able to use primates but would not be able to have the big cats or the elephants as part of the circuses in the ACT. In doing that, Madam Speaker, I am very conscious of the fact that there is also proposed new clause 51A, which would allow the Minister to reintroduce primates as a species that could be banned. I would encourage the Minister to use that option in 12 months' time if the code of conduct is not appropriate or if the monkeys are not handled appropriately. In 12 months' time, if that is the case, I would be prepared to support him should a motion of disallowance be raised in the Assembly.

MR WESTENDE (8.12): I foreshadow that I will be moving an amendment to Mr Moore's amendment to proposed new subclause 51(3).

MADAM SPEAKER: Has it been submitted in writing, Mr Westende, or will you do so?

MR WESTENDE: Yes, Madam Speaker.

MR HUMPHRIES (8.14): Madam Speaker, while Mr Westende is preparing his amendment, perhaps I could speak on this matter of Mr Lamont's generally.

MADAM SPEAKER: Yes, of course.

MR HUMPHRIES: Madam Speaker, I feel that the proposal put up by Mr Lamont with respect to the banning of exotic animals in circuses is sloppy legislation. The fundamental question before the Assembly has to be how we can best protect the interests of, in this case, animals, and provide that acts which are considered unacceptable in our society of the late twentieth century are, in fact, the standard that we adopt and incorporate in this legislation. That is the basic question ahead of us. There are, of course, a number of ways of achieving that. In this case Mr Lamont has chosen to prescribe certain activities and say that these activities are not consistent with the fair treatment of animals in our community.

I would argue, Madam Speaker, that what Mr Lamont is doing is making an assumption - indeed, Mr Moore, in supporting that amendment, has made the same assumption - that it is impossible to treat animals in a circus in any way but cruelly, in any way but in a way which we would deem to be inappropriate. I think, Madam Speaker, with the greatest respect, that that is making a very large assumption which is not borne out, and which could not be borne out, by the range of experience which is possible in a circus in this day and age. Mr Moore, for example, spoke about circuses necessarily being travelling circuses. I would put to you, Madam Speaker, for example, that it is quite possible to have a circus which is not travelling, as I understand that some circuses in the world are not in fact travelling circuses.

Mr Lamont: In the ACT.

MR HUMPHRIES: Maybe, in the ACT at the present time, there are not any non-travelling circuses. But you cannot say that there would not be at some point in the future. Is it not possible that the conditions about which we are talking at present might not exist in respect of some other circus?

The point I am making, Madam Speaker, is this: If Mr Lamont, and Mr Moore, for that matter, are concerned about the conditions of animals in circuses, then prescribe animal welfare legislation which says that it is an offence to be cruel to animals. Do not say that any circus, by definition, no matter how well run it is, must be necessarily an institution which is cruel to animals. Mr Lamont nods his head; yes, that must be the case.

Mr Lamont: It is.

MR HUMPHRIES: Mr Lamont's imagination is very limited. The fact of life is that we have - - -

Mr Kaine: He has a closed mind - - -

MR HUMPHRIES: He has indeed. As Mr Kaine has said, he has a closed mind on this matter. We are being lazy here. We are being lazy about this. We are saying that we cannot conceive of a circumstance where a circus could exist where animals are fairly treated. Consider how stupid that statement really is if you think about it carefully. We are not saying, "We impose on you conditions which you must meet". We are going one step further and saying, "Even if you can satisfy us that you can meet the conditions we lay down in legislation to deal with animals in a fair and proper way, even if you can meet those standards, we are still going to ban you because we consider that circuses are, by definition, incapable of providing fair treatment to animals". That is just not tenable. That is poor legislation and it is unfair to those who conduct circuses.

Mr Lamont says, "No, no, circuses at the present time do not do that". I would certainly take issue with that. I disagree with you that circuses in Australia at the present time are not good to animals. I contend, as do others who have taken the trouble to look at this matter, including in the past at least the RSPCA, that circuses in this country treat their animals fairly. But let us put that to one side.

Mr Lamont: Ask the executive director, who is sitting in the gallery. Ask the executive director of the RSPCA.

11 August 1992

MR HUMPHRIES: Madam Speaker, could I have some order?

MADAM SPEAKER: Order!

MR HUMPHRIES: Let us put that to one side. Is it not possible for someone to come forward and say, "We believe that we can employ animals usefully in a circus in a way which treats them fairly, which gives them very large cages, and which does everything else that those who are concerned about animal welfare might call for"? Is it not possible in those circumstances that a circus could operate which is not cruel to animals? Surely, Mr Lamont, you must concede that it is possible that that could happen. If that is the case, we should not legislate to say that all circuses should be banned or that all circuses involving exotic animals should be banned because - - -

Mr Connolly: Just the animals; the circuses are fine.

MR HUMPHRIES: We effectively ban those circuses, Mr Connolly; of course we do. We ban them in the ACT, at the very least. You cannot expect them to leave the animals that they take elsewhere in Australia on the border and put them out to graze while they come in here and run half a circus. We are banning circuses in the ACT as we know them, with certain exceptions such as Circus Oz and things of that kind. That is what we are doing. Let us be fair about it. Do not pretend that you are going to see in the future circuses like the ones we have seen recently, if you pass this legislation. You will not.

Mr Kaine: We can always go over the border to Queanbeyan and see them.

MR HUMPHRIES: That is a very good point. What the Government does with this legislation does not prevent certain circuses being exposed to the people of the ACT. It only means that they will have to travel to see them, but that is another matter.

Madam Speaker, there is another fundamental logical flaw about this legislation which troubles me very greatly, and that is that we have here a distinction between exotic animals so called and other animals. The distinction appears to be that exotic animals, by definition again, suffer cruelly in circuses, whereas other than exotic animals do not suffer cruelly in circuses. The logic of that has not been explained to me up till now. Why is it that - - -

Mr Moore: I have just explained that.

Mr Lamont: Mr Moore just explained it quite clearly.

MR HUMPHRIES: No, it has not been explained satisfactorily. Why is it that a horse will be treated properly in a circus, or a camel will be treated properly in a circus, but not an elephant? The camels and the elephants, with respect, are treated in a very similar fashion by most circuses. They are both allowed to graze at certain times; they are both tethered in certain ways; they both do similar things, to some extent, in the ring. But you distinguish between the two of them. You say that it is impossible to treat an elephant fairly in the ring in a circus, but it is possible to treat a camel fairly.

There seems to be some notion that cheetahs, giraffes, lions, tigers and elephants, some of which have been bred in captivity and are fifth generation captives, if you like, somehow still pine for the open plains of Africa or India, or wherever

they have come from; whereas ponies or camels, which also are originally from similar places, do not have that same instinctive feel for the places from which they originated. The logic is very hard to understand.

Mr Lamont: When the horse runs down the street you do not get out the gun and shoot it.

MR HUMPHRIES: That is a strange interjection, I must say, Madam Speaker. I really cannot understand the purpose of that. There is no logical basis on which to distinguish between exotic and non-exotic animals in this Bill. In fact, Madam Speaker, I would have had much more difficulty arguing against this provision if it had said, "No animals should be used in circuses"; but you do not do that. You say that exotic animals are not allowed, but non-exotic animals are; and I say, Madam Speaker, that that is just not well based in logic.

Madam Speaker, some opposite obviously have no concern and no compunction about driving this institution out of our Territory. Some of them feel that it is perfectly all right to take this step because they have the ears of certain radicals who believe that it is appropriate to take these kinds of drastic steps. They are radicals, Mr Connolly; they are in that category. They take steps which many in this community would not see as appropriate.

I think Mr Moore said that the market for circuses is dying or the market for circuses is dwindling. You did not go down to Tuggeranong the other night and see the hundreds and hundreds of people in those circus tents saying, "Yes, we are enjoying this. This is a good form of entertainment and we do not feel that the animals we are watching are suffering as they perform for us". I was there and I watched a performance, and I certainly felt that those who witnessed that experience enjoyed it and did not feel that they were exploiting animals by doing so. This point has to be made: Surely the onus is on those who proposed this legislation to prove that that kind of thing is going on. If you believe that animals are unfairly treated or cruelly treated, point out the cases and prosecute under existing legislation; but you cannot, because it does not happen, and you are left in the position of saying, "We cannot prove anything against circuses, so instead we will just ban it".

MR DE DOMENICO (8.25): I concur with what my colleague Mr Humphries said. Let us have no doubt about what is going on here tonight. If people do not want to attend the circus - let us be honest - they have a very democratic way of expressing their feelings, and that is by not going.

Mr Connolly: What if the elephant does not want to be caged and shackled?

MR DE DOMENICO: Did he tell you? Do you actually talk to animals? Let me go on. It is not a funny issue, might I say. What we are debating here tonight is not the fact that we are banning certain animals from circuses but the right of any government to completely wipe away, with a stroke of the pen, not just someone's livelihood but someone's lifestyle. That is what the issue is all about. The Government has no mandate to do it.

We hear a lot of things about consultation in this house. Why did Mr Lamont refuse bluntly to talk to the circus people? He might have disagreed with them; perhaps he would have. Why did he refuse bluntly to talk to them?

Mr Kaine: Because he did not want to learn anything.

11 August 1992

MR DE DOMENICO: Because he did not want to learn anything. Mr Lamont is probably on a promise, Madam Speaker. If we could see more into what was going on in here, he is probably on a promise. What Mr Lamont is all about is getting into bed with some left-wing radical organisation and others - a very dangerous liaison, Madam Speaker which could lead to a fatal attraction.

As Mr Humphries quite rightly said, if there is so much unseen cruelty in circuses in the ACT, why have there not been any prosecutions under existing legislation? Perhaps the Minister might want to answer that at the end of the debate. Why have there not been any prosecutions under existing legislation? That is one question I would like answered later on in the debate. I would say that it is because these claims of cruelty are greatly exaggerated, Mr Lamont and Madam Speaker, by people who have political aims rather than concern over the welfare of circus animals. As Mr Humphries rightly said, why can you always be cruel to a tiger and not be cruel to a camel? That is another question. Mr Lamont sat very happily at the tourism awards, by the way, Madam Speaker, whilst the camels paraded around the circus; but if he was really fair dinkum he would also ban camels and everything else.

Let us consider some other things. For example, I am sure that there is more cruelty to horses in the racing industry through the illegal use of performance enhancing drugs from time to time, poor stabling, bad training methods, and inadequate breeding than there is in the circus industry.

Mr Lamont: Outrageous, absolutely outrageous!

MR DE DOMENICO: Mr Lamont says, "Outrageous". Let me now quote, and later incorporate in *Hansard*, Madam Speaker - let me give you notice of that - from a facsimile I received today from a Mr Colquhoun. I asked him whether he would mind me using his name. Mr Colquhoun happens to be the chairman of the ACT Racing Club and also, by the way, chairman of the TAB.

Mr Kaine: Appointed by this Government.

MR DE DOMENICO: Appointed by this Government. Let us hear what Mr Colquhoun has to say about the issue. He says:

The racing industry's difficulties with the Bill in its present form are threefold.

1. Lack of definition of an act of cruelty.

He goes on to say that clause 7 of the Bill says so and so. He says, and he is also a lawyer, Madam Speaker:

Some conduct which occurs during a horse race will prima facie be an act of cruelty. For example the use of a whip by a barrier attendant, the use of a whip by a jockey, the use of a tongue tie by a trainer and the use of hobbles in a trotting race could (and perhaps would) be considered acts of cruelty by a magistrate or judge or jury.

So I ask the Minister: Does the Minister intend to ban horseracing in the ACT? If the answer to that question is yes, is the Government prepared to forgo \$6m of revenue into the ACT economy per year, if we are to believe the Sport Minister, Mr Berry?

Mr Kaine: Why are they distinguishing?

MR DE DOMENICO: If not, as Mr Kaine quite correctly says, why are they distinguishing between horseracing and elephants or primates or whatever in circuses? Mr Moore is prepared to stand up and attest that all elephants, tigers, giraffes and whatever are cruelly treated. If we support his amendment we can bring in gorillas from wherever we want to bring them from, as big as they can be. Gorillas are all right, but we cannot bring in a little seventh generation, Australian born tiger which is treated quite nicely by the people who own it and love it, Mr Moore, because it is their livelihood in a lot of cases. It is all right to bring in a gorilla, but we have to get rid of the elephants and the tigers. What humbug! What double standards! Let us get real about this issue. That is what it is all about. So that is what Mr Colquhoun says about the racing situation. He goes on to refer to subclause 8(1), which says:

A person shall not, without reasonable excuse, deliberately cause an animal unnecessary pain.

He talks about pain. He goes on to say:

This Clause is expressed so widely that it opens up a Pandora's box ...

He continues:

That pain is caused to racehorses daily is undeniable.

I am glad to see that Mr Wright is in the audience here, because Mr Wright is a member of the Carbine Club, which supports the racehorse industry. He also happens to be the chairman of the RSPCA. One wonders what Mr Wright thinks of Mr Colquhoun's opinion. One wonders what the RSPCA thinks of Mr Colquhoun's opinion, "That pain is caused to racehorses daily is undeniable". So, if this Government is fair dinkum, if this legislation gets through tonight, we hope to debate the issue of whether we should ban horseracing. Let us see how many double standards you have, Mr Lamont. Let us see what you are going to do about banning horseracing.

Madam Speaker, as Mr Humphries said, quite correctly, there is legislation currently in tow here. If anyone mistreats any animal, whether it be a domestic animal, a primate, an elephant, a tiger or anything else, why has there not been a prosecution? The answer, Madam Speaker, is: Because this Bill is all about politics, about getting into bed, as I said before, with minority groups because of certain promises made by those minority groups, I dare say; it is nothing about anything that makes sense in this place.

We are the laughing-stock of this nation, Madam Speaker. We are the laughing-stock of this nation because in October, in Brisbane, Mr Wood, I believe, accepted an invitation to go to a national conference of Ministers who will try to debate national legislation on animal welfare, amongst other things, and codes of conduct.

Mr Wood: Oh, are we?

11 August 1992

MR DE DOMENICO: Well, you are, are you not? Perhaps you can answer that later on, Mr Wood. Would it not be logical to wait and see what the collective minds of those honourable people decide, before we go our own way and once again become the laughing-stock of this country?

As Mr Humphries quite correctly said, and as I see it, there is nothing to stop the circuses with elephants, tigers and lions performing in Queanbeyan. I am glad Ms Ellis went to Tuggeranong. She would have told Mr Lamont that nearly 8,500 people, over two days, expressed their view on elephants and performing tigers when they said, "We are delighted to be here; we are delighted to bring our children here". Mr Stevenson was there as well. If he had done a survey he would have told you that all of the people who were there - and there were a lot of Canberrans there, Mr Lamont - expressed their opinion - - -

Ms Ellis: I did not go to see the number of people. I went to look at the animals. I would have been far more interested in a survey of the animals than the people.

MR DE DOMENICO: Ms Ellis, if you can give me a way of getting the animals to tell you what they think, let me know.

Ms Ellis: I think that is far more relevant to the debate.

MR DE DOMENICO: It is relevant to the debate. This Government prides itself on consultation, Madam Speaker. Mr Lamont, on the other side of this house, who prides himself on consultation, bluntly refused to talk to the circus people. He did not just disagree with them; he refused to let them in his door.

Ms Ellis: I offered to meet with them and they did not come near me.

MR DE DOMENICO: Mr Lamont moved the amendment, Ms Ellis. He refused to talk to them; he refused to talk to them. Not only that; he is refusing to note that the people who turned up at Tuggeranong are saying, "We do not want you to ban circuses, because the circus people have a long history of looking after their animals, Mr Lamont, because - - -

Mr Lamont: They have not changed in 150 years.

MR DE DOMENICO: You would not know, because you have not even given them the courtesy of letting them in your door. Your mind is closed. Ideology runs you, not logic, and you know that. You are on a promise, as I said; and that is a very dangerous way of doing things, Mr Lamont, might I suggest. Madam Speaker, that is what this thing is all about.

Mr Berry: Madam Speaker, I take a point of order. It seems to me that a grave charge has been made by a member against another member in relation to what has been referred to as "on a promise" for the activities of a member in this Assembly.

Mr Kaine: Well, what is the pay-off? There must be one.

Mr Berry: Now we have the Leader of the Opposition imputing that there may be a pay-off. I would ask that the Leader of the Opposition withdraw the imputation that there is a pay-off and I would ask that Mr De Domenico withdraw the imputation that there is a likelihood of a pay-off.

Mr Kaine: I asked you a question. Maybe you would like to answer it instead of demanding that I withdraw it.

Mr Humphries: Speaking to the point of order, Madam Speaker, - - -

MADAM SPEAKER: Just a minute, please. As I understand it, Mr Berry is taking a point of order against Mr De Domenico. As I understand it, Mr De Domenico, you perhaps made an imputation of improper motives against another member in this Assembly.

Mr Humphries: On that point of order, Madam Speaker: I would like to address you on that.

MADAM SPEAKER: I have not finished. If that is indeed the case, there is a standing order which asks that members do not put improper motives on other people's statements or behaviour. Mr De Domenico, I will leave it to you. Was it your intention to place an improper motive on anything Mr Lamont - - -

MR DE DOMENICO: No, Madam Speaker, it was not.

MADAM SPEAKER: So you are withdrawing any imputation?

MR DE DOMENICO: There was no imputation, as far as I am concerned, Madam Speaker.

MADAM SPEAKER: Thank you. Mr De Domenico has withdrawn it.

MR DE DOMENICO: No. I raise a point of order, Madam Speaker. No, I have not - - -

MADAM SPEAKER: I understood you, Mr De Domenico, to withdraw any likelihood of an imputation.

MR DE DOMENICO: No; I said that there was no imputation. I did not withdraw what I said. I said that there was no imputation made.

MADAM SPEAKER: Fine; that is the same. Thank you very much; that is fine.

MS SZUTY (8.36): Madam Speaker, as my colleague Mr Moore has indicated that he will support Mr Lamont's amendments in banning most exotic animals from circuses, my view becomes largely academic. However, I wish to place it on the record. The amendments have raised a number of complex issues regarding the care of exotic animals and the appropriateness of their performing in circuses. In responding to the issue, I have sought and received views from various organisations, including the Conservation Council, the Australian and New Zealand Federation of Animal Societies, the RSPCA, Animal Liberation and the Circus Federation of Australia, and I visited the three circuses when they were here in Canberra last week. I have also received many telephone calls and hundreds of letters. What I have encountered is a polarisation of views on the issue, with little or no agreement being reached. I have by no means accepted at face value the arguments of one lobby group or the other; consequently, it has taken me six weeks to fully consider my position.

I have approached the issue similarly to my colleague Mr Moore, but I have arrived at different conclusions. I have therefore looked at the issue from the perspective of primates, elephants and large cats - the only exotic animals currently touring regularly in circuses in Australia. Primates are social animals

11 August 1992

and interact well with human beings. Their accommodation in circuses is similar to what can be found in zoos. The special needs of various species of primates need specific consideration, and the development of codes of practice for the care of primates is needed. The Circus Federation of Australia are to be commended for their efforts thus far to establish appropriate codes of practice for the care and well-being of all their animals.

There are eight to nine female Indian elephants touring Australia with circuses. As an import ban exists on bringing additional elephants to Australia and because no baby elephants are expected to be born in captivity, there will not be elephants performing in Australian circuses for long into the future. I was fortunate to see six elephants interacting when I visited the circuses last week. I was introduced initially to four female elephants, untethered, grazing contentedly under the supervision of their handler. The elephants showed no signs of distress. The elephants I noticed at some distance from this group were also untethered and some 15 minutes later approached the other group. As I had been informed that elephants form distinct social groups and tend to keep their distance from each other, I watched the impending encounter with interest. After some trumpeting, two elephants left the group of four and returned to their former place of grazing.

Due to the inclement weather of the day, I was informed that the elephants would not be performing in the ring that afternoon and shortly afterwards they left to be transported back to base in Sydney. The two remaining elephants apparently performed on Thursday evening, circling and engaging the attention of the crowd which had come to watch them. I believe the elephant trainer when he says that they will not perform any act they do not want to perform. One only has to see the size and mass of elephants to appreciate that.

Circus acts involving elephants have changed over the years. We no longer see elephants dressed up, performing silly acts with other animals or clowns. We see the dignified, awesome elephants coming into some form of social contact with the audience, guided by their trainer. However, I do not believe that unnecessarily transporting elephants for the benefit of making a protest to the ACT Legislative Assembly is appropriate for elephants; nor do I believe that elephants are better off in circuses or in zoos than they are in the wild - a view expressed by the Circus Federation of Australia. I also feel strongly that the elephants currently in circuses are unique, not wild, and trained to expect a different life from that offered to zoo animals. To conclude, I do not see the necessity of banning elephants from circuses in the ACT now. Time alone will ensure that we will not see them in circuses in the future.

Large cats, lions and tigers, also have been part of circuses, as we know them, for many years. Of all the exotic animals in circuses, I have had most concerns about the care and handling of large cats. It was with this view in mind that I went to see the tigers last week before their performance, during their performance, immediately after their performance and some time after their performance. I saw two Bengal tigers and two Sumatran tigers in their cages prior to the performance. They looked relaxed and uninterested in their keen observers. They groomed themselves and each other, lying down most of the time. The performance was not about making them appear ferocious and their trainer important. Times have changed. They sat on stools, jumped over each other, sat

up and rolled over, the audience regarding them with wonder and awe. What the tigers were meant to do in the ring as part of their routine and did not want to do, they simply did not do. Again, as their trainer said, if a tiger decides that it does not want to do something it does not do it.

Returning to their cage, they paced around for a short time and then lay down. Due to the weather it was pointless erecting their exercise cage because they simply would not have used it. When I asked what the tigers would be doing in half an hour's time, I was informed that they would be asleep. When I returned some time later, this was the case. Apparently large cats spend most of their time asleep. I admit to having some difficulty in coming to terms with large cats being confined to cages for most of their lives. However, and I believe that this is an important point, tigers are an endangered species worldwide and there is no question that tigers are breeding here in circuses in Australia in captivity. Surely we can encourage the survival of tigers by encouraging them to breed, returning many cubs to international zoos to ensure their survival and prevent their extinction.

I do not claim to have the last word to say on this subject. Although some studies have been done, many more need to be completed before we can be sure about the needs and care of exotic species in circuses. So far, on this issue, academics are divided, veterinarians are divided and community attitudes are divided. It is this reason, and those which I have outlined, which have led to my decision to not support Mr Lamont's amendments advocating the banning of exotic animals in circuses visiting the ACT. It will be up to others to further examine the issue in Australia and to determine the fate of these very special animals.

MR STEVENSON (8.44): I have long been concerned about animals in many areas. I have a small library of books concerning vivisection. I was involved in an organisation that used various cosmetic products and we always made it a point never to use products, firstly, that were tested on animals and, secondly, that contained animal products. That is an extremely difficult thing to do. The vast majority of cosmetics, hair care products and so on do contain some animal products, although most people do not know this. We used to go on for a long time with representatives who came down to Canberra and told us, "Yes, there are no animal products and they are not tested on animals". We would say, "Well, that is wonderful. Would you be kind enough to give us that in writing?". The reps would say, "Well, all right, we will do that", and usually you would never hear from them again. If you did, they would say, "Well, look, that is right; but they will not give it to us in writing". So I have had a long concern.

I have been a vegetarian for quite some time and, like most people, we are concerned about animals. It does not matter whether someone runs a cattle station or what work they do; the vast majority of people are very concerned about animals. Some are far more concerned about them than about people. They feel that animals give them far less trouble than people do. So I have a lot of mixed feelings on the proposal by Mr Lamont to, in effect, ban traditional circuses from visiting the ACT.

As most people here would well understand, I believe that the job of a representative is to represent the people, and we surveyed this issue over the last 10 days. The reason why we wait until the end of the time that there is for public consultation and debate is to give people as much time as possible to make an informed decision. I think that is important, because one of the issues often talked about is citizens' referenda. There have been suggestions by some

11 August 1992

members of parliament that citizens should not have this right because they cannot make informed decisions. I think one of the difficulties there is that quite often we do not allow the time or give the information that would allow people in the community to make excellent decisions.

Mr Lamont: Four years, Dennis.

MR STEVENSON: Mr Lamont mentions four years. I suggest that the vast majority of people in Canberra do not have the slightest understanding that this particular debate has been on for four years. There is a more important factor than whether debate has been occurring or whether people have been talking about a particular issue. I think the key is when legislation is tabled in parliament. All that has happened before that does not have the same import. Once specific laws are proposed one can look at those laws, look at the specific clauses, and make a decision. That is when the publicity should start; that is when the public communication and consultation should happen.

So we have conducted a survey. We surveyed 410 people. In answer to the question, "Should circuses be banned in the ACT if they show animals such as elephants, monkeys and lions?", 58.8 per cent said no, 28.5 per cent said yes, and 11.7 per cent said that they either did not have enough information to make a decision, which is an interesting point - they felt that they did not have that consultation process - or were unconcerned about that issue.

Most of the people we polled were in Woden, in the Garema Place area, outside shopping centres, or in Glebe Park. To double-check our results we are now doing a telephone poll in case some people have an understanding of who we are. When we survey we do an independent telephone poll. We telephoned 50 names selected systematically from the white pages phone book to get a random result. Of these people, 70 per cent opposed a ban, 22 per cent supported a ban, and 8 per cent either were unconcerned or did not have enough information to make a decision.

Mr Lamont: It is too small to be statistically significant.

MR STEVENSON: Mr Lamont says that the sampling was too small.

Mr Lamont: The phone poll.

MR STEVENSON: Once again the phone poll is basically to check the other poll. As for whether it is statistically correct, if anybody would like to have a little side wager with me we will go out and survey 5,000 - provided the wager is worthwhile. Once again, I think it is a reasonable thing. It was a fair question and it was done quite reasonably. I think it clearly shows us that the majority of people in Canberra would support circuses coming to Canberra. I well understand that some people may vehemently oppose that. Certainly there were people who would ban circuses and they felt very strongly about that. But one thing that did surprise me was the number of people who felt very strongly, equally, about circuses being allowed to come to Canberra. They felt just as strongly. I thought they may not feel as strongly in that case, but they do.

There is something else that I feel is quite important. We were sent - I have no doubt that this went to all members - a list of many incidents with a title at the top saying, "List of incidents involving Australian circus animals". There were 40 sent to us by people concerned with animal welfare and I think that we should look at some of these particular incidents. At item 4 it stated that in January 1978,

at the Sole Brothers Circus, Rocky was killed when a tree crashed through powerlines at Prince Alfred Park. I have evidence here that at that particular time the wind gusts were officially registered by the bureau at 79.7 kilometres per hour on 16 January 1978. The *Sydney Morning Herald's* lead story the next day was headed, "Worst January winds in 70 years", and said that several people were killed in related incidents around Sydney. I have the weather chart on that one. So perhaps it was a little unreasonable to suggest that that was a problem with circuses.

In this list item 6 says that in February 1980 the Monte Carlo International Circus was prosecuted by the Victorian Ministry for Conservation for failing to conform with minimum cage requirements. Unfortunately, that should not have been there because that was not an Australian circus. It did not involve Australian circus animals.

Mr Lamont: Yes, it is. It is an Australian circus.

MR STEVENSON: It is an overseas circus. Mr Lamont said that it is an Australian circus involving Australian animals, but I have been told that it is an overseas circus. It was not approved by the Circus Federation or the Circus Fans Association of Australasia for cage sizes. Not only was it not an Australian circus; I have been told that protests by the circus people to the Primary Industries Department quarantine section and the Department of Foreign Affairs confirmed that Australia was obliged to accept these conditions as part of a cultural exchange program sanctioned under United Nations protocols. To include any of these instances that involve overseas circuses under a title saying "List of incidents involving Australian circus animals" is unfair and misleading and does no-one's concerns any good at all. No Australian circus was involved in that one.

Item 8 relates to August 1980, when Ashton's elephant Abu escaped and headed for an Ingham cane field. Two years later to the day she repeated her escapade in the same cane field. That is actually a publicity stunt that goes on every time that they go up there. All elephants who travel to North Queensland know exactly where the nearby sugar plantation is and all are released to find their own way to it. One reporter, I am informed, did not understand that that was an annual event and wrote it up as though a circus animal had escaped and was a problem.

Incident 9 is when the so-called World's Greatest Circus Spectacular was fined \$4,000 on charges of cruelty relating to cage sizes. Once again, that was not an Australian circus but an overseas circus. The local circuses had complained and tried to get something done about that but were unable to do so. There are six incidents in this list where overseas circuses were involved. There are many more. They are, unfortunately, quite misleading. I intend to put the details out and ask for detailed explanations of them.

MR LAMONT (8.54): I indicate that I will be speaking most assuredly against the proposal tabled by Mr Westende, which has the effect of postponing any prohibition by at least eight years, and I wish to address the proposal in Mr Moore's amendment to exclude primates.

Madam Speaker, when I presented my amendment several weeks ago I said that it was impossible for me to argue with the likes of Mr De Domenico on this issue. What I believed was base cruelty he thought of as entertainment. There seemed little point in trying to debate an issue where there was apparently no

11 August 1992

commonality in our fundamental positions. In the weeks which have followed, absolutely nothing has changed to make me think that Mr De Domenico is any more a sensate being now than he was then.

When the Independents insisted on deferring the legislation so that, according to them, there could be a fuller debate, I imagine they were hoping that the Liberals would present some kind of rational argument to the community. Instead, we have had nothing but the same farrago of nonsense which they trotted out several weeks ago. The Opposition has continued to push several big porkers: First, that my amendment is an extremist position and that it is designed to destroy circuses completely; secondly, that it is the thin end of the wedge which will create problems for horseracing and other activities - Mr De Domenico has even claimed that it will mean the outlawing of budgies in cages; and, thirdly, that there is a great ground swell of public opinion against my amendment.

Let us look at these issues in turn. The first is the so-called extremist position. I have said it innumerable times, but I will say it once again in the hope that those opposite will actually get to understand what has been said to them: The recommendation to ban the use of these animals, on which my amendment is based, was made by the Animal Welfare Representative Working Group - AWRWG - which guided the ACT Parks and Conservation report on animal welfare that was presented to the Government in October 1990. Just to remind you, there was a specific statement on page 54 of that document recommending the outlawing of exotic animals in circuses in the ACT. It apparently has not mattered to members of the Opposition that the AWRWG was made up of a wide cross-section of community interests. It has not mattered to them that on radio talkback after radio talkback the huge majority of callers have supported the ban. Then again, it has not mattered to them either that when Mr Kaine was the leader of the Alliance Government he endorsed the recommendations of the report.

Mr Kaine: I do not believe that that is true.

MR LAMONT: Mr Humphries was also here in attendance, Mr Kaine. Everyone supporting this, according to Mr De Domenico and Mr Westende, is an extremist who would take away the fun from small children and have you give up your budgie. Mr Perry has even tried to equate banning tigers and lions with a ban on line fishing. That is about as rational as saying that we should not have stopped public hangings because school children were still getting the cane at school. That is the length of your rationality about these issues.

The fact is that Mr De Domenico, Mr Westende and the circus lobby have been involved in a shabby and stupid scare campaign which they believed they could harness to whip up huge opposition to the Government. Mr De Domenico thought it would be an issue of mass popular support that would see him in the role of the people's man, which he could use in his laughable aspiration to replace Mr Kaine. The crassness and opportunism of the Liberals, and Mr De Domenico in particular, in seizing this issue was pointed out pretty succinctly by Peter Clack - who, I might add, does not necessarily support the amendment - when he said in the *Canberra Times* on Sunday:

The Liberal MLAs have struggled to find a cause and have latched on to the animal welfare issue, affecting circuses, with a will.

But the great popular uprising has not occurred. The circus lobby had to resort to handing out free tickets to two-year-olds to bolster its claims of support. I have witnessed young children being accosted in the centre of the city and encouraged to sign the petitions that were presented here this morning. Mr De Domenico, DUBY-like, thinks that the unwitting cruelty of juveniles is the rock upon which to build government policy. And he wonders why he is not the leader of the Liberals!

There was something in that *Canberra Times* article on which I have to take issue with Peter Clack. He said:

Mr De Domenico is certainly enthusiastic, but his eagerness for the fray often spills over in the Assembly where he can be heard constantly overriding speakers from his own party.

Mr Kaine: I raise a point of order, Madam Speaker. I draw attention to the fact that we are supposed to be debating the Animal Welfare Bill and Mr Lamont's amendment to it. What Mr Clack said in the *Canberra Times* or some place else about something entirely irrelevant has no place here. Perhaps Mr Lamont ought to keep to the debate, Madam Speaker.

MADAM SPEAKER: I trust that you will remember the ruling about relevance, Mr Lamont.

MR LAMONT: Madam Speaker, the rest is extremely appropriate to this issue, as indeed the previous pages have been. This implies that Mr Kaine would not have wanted Mr De Domenico shooting off his mouth about the issue. Of course, Mr Kaine knows that this is not a winner for the Liberals. He knew that there was no future in supporting animal cruelty when he endorsed the report presented when he was in government.

He knows that it is not an extremist view, but that does not mean that he is not happy having Tony act the goose. The truth is that he has left Mr De Domenico holding not just the elephant but the bunny as well. I take my hat off to him. He has cleverly sat back and let Mr De Domenico make a fool of himself - though, heavens above, there was no money lost on that bet. You thought you were the tiger, Mr De Domenico; but you have been outsmarted by the silver fox. I can hardly wait to see how the silver fox lines up Mrs Carnell and Mr Humphries. I am sure he will do it with the consummate grace he has demonstrated on this occasion.

I have the very greatest respect for Animal Liberation as an organisation. I am proud to be associated with Animal Liberation on this issue. They have a very fine record of working for the amelioration of animal cruelty. They may be a radical organisation, but that does not make them extremist. The fact is, however, that this proposal does not even rate the word "radical". The RSPCA policy on the use of animals in entertainment says:

RSPCA Australia is totally opposed to exhibitions or presentations of animals in circuses, travelling menageries and theatres. Circus animals are kept most of the time in close confinement, in abnormal social groups and are continually being transported - all causes of stress. They are subjected to forced training, performing to a timetable and performing acts which do not come naturally to them.

11 August 1992

This policy was reiterated to me, and I presume all MLAs, including those opposite, in a letter dated 11 June from the ACT director of the RSPCA, Mr Neil Turner. He said that the decision to ban exotic animals "should be taken now".

This idea is so radical that animal circus acts have now been banned in Williamstown, Oakleigh, Springvale, Coburg, Fitzroy, Sandringham, St Kilda, Heidelberg, Hawthorn, Doncaster, Templestowe, Diamond Valley, Richmond, Brighton, Warringah, Blue Mountains, Kalamunda, Mosman Park and Swan; so radical that they have been banned in 164 shires in the United Kingdom and in dozens of municipalities in continental Europe; so radical that they are banned in Toronto, Vancouver, and the Canadian city of Victoria - the Toronto City Council recently voted 11 to 4 in favour of the ban; and so radical that they are banned throughout India, the largest democracy in the world.

This idea is so radical that I have had members of the ACT Liberal Party ringing me up, giving their names, telling me what sub-branch they belong to, and saying, "We support the proposal to ban the animals. What our colleagues are saying is absolute nonsense and we do not support it".

Ms Follett: Madam Speaker, I move for an extension of time for Mr Lamont.

MADAM SPEAKER: Under the rules of this debate, Mr Lamont can speak twice to this topic. He can either speak twice now or seek leave for an extension of time.

MR LAMONT: I will keep going, if I can, Madam Speaker.

So radical is this proposal, so extremist, that in March 1991 - not very long ago - the New South Wales Liberal Government Environment Minister refused to import - - -

Mr De Domenico: Who was he?

MR LAMONT: Tim Moore, the mate that you got up and supported not very long ago, Mr De Domenico; the same mate who, when he refused an import permit for nine trained lions for Sole Brothers Circus, said:

Sole Brothers Circus has failed to meet the standards required under the Exhibited Animals Protection Act and has been unable to demonstrate that the lions, if imported, would be housed to standards acceptable in New South Wales.

That is what Tim Moore said. That is what your guiding light said, Mr De Domenico. He would not allow them in because the conditions under which the existing animals were housed were unacceptable to him and he was not prepared to see a perpetuation of that.

Madam Speaker, this is an idea whose time has come. The circus lobby has criticised me for using the example of Alfred Court, the trainer. They tell me that he has not trained for 47 years and that the training methods of today reject the barbarism of Court's era. I am not quite sure how they do this. Despite protesting that it no longer happens, no-one has been able to explain to me how cruelty has necessarily been removed from training. Nevertheless, in the interests of this debate, I will accept that as a valid criticism in relation to what I have said.

I will accept what the circus lobby has said in relation to Alfred Court and his training methods as a valid criticism for the purpose of this debate. The obvious corollary to this change in training methods is that what may have been acceptable as far as the caging, tethering and transport of these animals in Court's day is no longer acceptable now. Zoos have changed remarkably over the last two decades, but circuses - and this is their proud boast - have remained unchanged for 150 years.

Nor do I accept the claim that it will be the death of circuses. Human circuses, including the Cirque du Soleil, Cirque de Archaos, Circus Burlesque, Circus Oz, the Circus for Animal Rights, the Pickle Family Circus, Circus Smirkus, Nexus Circus, China's Beijing Circus and Australia's Fruit Fly Circus, are achieving terrific success, not only in their own countries but also internationally, in recognition of the entertainment and enjoyment they provide without the barbaric use of these types of exotic animals. The great circuses of Europe are beginning to phase out their animals. The Moscow State Circus has toured the world without them and has done so with phenomenal success. This amendment will not kill the circus. Indeed, it may well save it from extinction.

Is my amendment the thin end of the wedge? According to the *Canberra Times* on Sunday, the president of the ACT branch of Animal Liberation, Ms Dominique Thiriet, said that my proposal did not go far enough. In some respects I accept her view. However, I do not believe that the community is as convinced that cruelty to domestic animals in circuses is as systemic as it is for exotic creatures. I believe that the community, unlike the Opposition, makes a distinction between, on the one hand, animals which can be trained by encouragement and reward and, on the other, those which have to be physically coerced, perhaps cruelly, to perform.

I think they also make a distinction between animals which can be released in the local paddock after a show and those which remain all but forever in cramped, unhygienic cages or are shot should they escape to the local supermarket. I believe that they also make a distinction between, on the one hand, animals which may endure accidents in unfortunate circumstances such as falls at races and, on the other, animals which are mistreated through routine indifference to their basic needs.

I also believe that they have the ability, unlike Mr De Domenico and Mr Westende, to understand the difference between caging a tiger and caging a budgie. It is not that the public are indifferent to the suffering of domestic animals, but that they believe that cruelty to them can be controlled by regulation of their treatment. Steeplechase horseracing is one example where, with no great hue and cry from the racing public, it was felt that the incidence of mishaps was of systemic proportions and the practice had to be stopped.

This proposal is not the thin end of the wedge, unless those people in charge of animals wish to make it so. Leaving aside the question of the suffering and humiliation of animals for training and performance, the inescapable fact is that exotic animals in circuses require a level of systemic cruelty in their caging and transporting which is simply unavoidable. The unavoidability of the cruelty is what makes the circumstances of the exotic animals unique.

11 August 1992

The proposal I have put forward could not, therefore, be used to argue the same for domestic animals, which can be relieved of stress. I repeat: The proposal is not the thin end of the wedge only if those with responsibility for animals do not want to make it so. They can ensure that it does not become the thin end of the wedge only by making sure that they conform to the codes and standards required for the keeping of domestic animals. If the circuses want to tie the two issues together, they need not be worried that we will not be watching how they treat their domestic animals.

What about the ground swell of popular support? I have, in all honesty, been surprised by the feebleness of public opposition to the proposal. When the circus lobby first mobilised their campaign I received probably 15 calls opposing the ban, less than half-a-dozen of which came from within the ACT. I received innumerable local calls in support. The last count of letters opposing it was one. This solitary one is certainly greatly outnumbered by the opinions in support.

The circuses know that they are in trouble, with attendances way down from the halcyon days of the circus. This is probably why we had the unedifying spectacle of Lorraine Ashton joining Robert Perry in resorting to simple abuse, referring to government members, and presumably me in particular, as "loud-mouthed, ill-informed, bigoted individuals telling me what to do". I have unfortunate news for both Mrs Ashton and Mr Perry: "I, as a so-called loud-mouthed, ill-informed, bigoted individual, am telling you, in no uncertain terms, that we are responsible to the electors of the ACT". That is the role that is vested in me as an MLA. We will be responsible to the electors and not to self-interested, self-opinionated arbiters of public taste such as them.

Unless one makes a career of public plebiscites, like the fictional politician Michael Rimmer, or Mr Stevenson, popular opinion cannot be the only criterion on which our decisions are based. As Edmund Burke said:

Your representative owes you, not his industry only, but his judgment; and he betrays instead of serving you if he sacrifices it to your opinion.

If the electors are unhappy with my judgment, they have a remedy at hand at the ballot-box. The claims of the circus lobby to mass support are illusory, and this will be proved to Mr Perry and Mrs Ashton, and to all the other fly-ins from outside Canberra, at the next ACT poll.

I now turn to the specific issue of primates, which has been addressed by Mr Moore. Mr Moore's opposition to the ban on primates is a little curious. He has told us that the affinity of monkeys and chimps, for example, with humans is such that they find the life of humans relatively compatible - more compatible than, say, elephants or tigers do. He also says that this affinity and their size make them, as a species, amenable to improved codes of practice. All we need to do is pass this new code and circuses would be required to travel around with huge zoo-like cages for their monkeys and chimps, and presumably their gorillas and any baboons they might like to bring along with them.

Well, maybe they would; but, frankly, this is about as feasible as Mr Westende's 10-year moratorium. It simply will not work and, more importantly, it is based on a couple of fundamentally unsound premises. The first of these is the so-called propinquity of the apes with human society. True, they almost certainly

have a greater affinity with human behaviour than does an elephant or a tiger, but surely Mr Moore can see that the greater intelligence of the apes is the very thing that is the source of their suffering. A circus might be able to house a monkey more easily than an elephant, but that does not mean that monkeys suffer any less for being different from those other animals. The particular trauma of apes is well documented. The Australian Veterinary Association, for example, last year highlighted the fact that monkeys displayed the greatest pathological disturbances of all circus animals. In its report to the Liverpool City Council it noted that circus apes could become "neurotic". Madam Speaker, I seek a short extension of time.

Mr Kaine: No; we have already been quite indulgent, I think. He has already spoken three times. He spoke once when he introduced his amendment.

Leave not granted.

Motion (by **Ms Follett**) agreed to:

That Mr Lamont be granted an extension of time.

MR LAMONT: Thank you, Madam Speaker. I also thank my fellow members who supported that proposition.

There are regular reports of monkeys and chimps playing with their own faeces and throwing them at each other. This is an act which, I am reliably informed, is definitely acute neurotic behaviour for all the animals, including the Opposition, Mr Moore now thinks - - -

Mr De Domenico: I raise a point of order, Madam Speaker. I ask Mr Lamont, the pariah of virtue in this place, to withdraw the word "animals".

Mr Connolly: It is not really a point of order. It is certainly an assault on the English language - a pariah of virtue. I think he means a paragon of virtue.

Mr De Domenico: How do you know what I meant, Mr Connolly?

MR LAMONT: Madam Speaker, I withdraw any inference which may have implied that my colleagues opposite were fit to be chimps. I will repeat that statement, Madam Speaker. There are regular reports of monkeys and chimps playing with their own faeces and throwing them at each other. This is an activity which, I am reliably informed, is definitely acute neurotic behaviour for all the animals Mr Moore now thinks are so compatible with circuses.

The second issue I take up with regard to Mr Moore's proposal is that there is no likelihood that a code for apes would receive sufficient priority for it to be drawn up, in my estimation, in anything less than five years. The major focus of the code regime to be considered by the animal welfare Ministers later this year is intensive farming practices. Circus animals, as I understand it, at this stage are not even on that agenda. It may be that that will come on the agenda, but it certainly will not be with a high priority. Mr Moore believes in protecting apes only by the use of a code and not by a ban. He is also going to have to believe that it is okay to continue to be cruel to apes for a very considerable period, if that is the case.

11 August 1992

There is a third premise to Mr Moore's argument, although it is not stated openly, only implied. He seems to be suggesting that the only cruelty which takes place with chimps has to do with their accommodation. Hopefully, I have set him right. I have been able to show Mr Moore video evidence of instances where members of Perry Brothers Circus have used a monkey to attack demonstrators, throwing the monkey at one person and then encouraging the monkey to bite the person. There was also a video of one of those closely "affiliated" circus handlers swinging the monkey by the chain around its neck when the highly "affiliated" monkey tried - ungratefully - to escape. Do we really suppose that any code will be able to prevent the degrading spectacle of monkeys being chained? Madam Speaker, that is where I intend to leave my address. I shall reserve further comment in relation to some of the matters raised until Mr Westende has moved his amendments.

MR WESTENDE (9.19): Madam Speaker, I have not spoken yet on the amendment. May I first of all correct a few things Mr Lamont said. I found it very offensive that he would character-assassinate Mrs Ashton and Mr Perry, who are not in a position to defend themselves in this house. You ought to be ashamed of yourself, Mr Lamont. I would have thought that even you would have more manners than that. Furthermore, Mr Lamont, if you want to quote councils that have banned circuses, you should be accurate and quote councils that have banned circuses from performing on council land. That is the fact, Mr Lamont. You say that they have been banned by 100 councils from performing on their land. Why not mention the 900 councils in Australia that allow them on council land? If we want to debate, let us be fair. Let this be a fair debate. Let this be a fair law. Let us be fair to the animals, and let us be fair to the people who treat those animals like human beings.

Turning to Mr Lamont's policy statement, it is rather odd that in the submissions to the people who constituted this forum there was an entirely different draft that was omitted from this document, which read as follows: "It is recognised that varying State regulations make it difficult for mobile enterprises such as circuses to comply with the different conditions imposed. The development of a national code of practice for circuses, therefore, is strongly supported. Abidance by this code, when developed, should be a condition of the permit".

Mr Lamont: Where is this from?

MR WESTENDE: That is part of the submission that resulted in this document, and it was very conveniently omitted, Mr Lamont.

Mr Lamont: It was your Government that supported it. Your Government endorsed it. Mr Kaine was the leader. He was the Chief Minister.

MR WESTENDE: I am saying to you, Mr Lamont, that that paragraph was very conveniently omitted.

Mr Lamont: And we hope that it remains that way.

MR WESTENDE: We hope that it does not, and we are working on it. I am glad you mentioned the next poll, because there will be a next time. There will be a poll two years from now and you will have to account for your actions in this house. If you are so damned sure that you have people on your side, why did

you not say in your policy platform that you were going to move this? Why was it not in the Bill in the first instance? Why did it have to be an amendment? Why do you not take up Mr Stevenson's approach and do a survey? Better still, why do you not have a referendum on it, if you are so certain? I am prepared to make a decent wager for the animal welfare lobby if your Government is prepared to have a referendum.

Madam Speaker, I could go on. Normally I speak from notes, but this got my hackles up so much that I could not help myself. I had to let Mr Lamont know how I really feel about this. I happen to have grown up on the land, to have grown up amongst animals. I know a little about animals. I do not even have a dog or a cat because I feel that it is unfair to them. I might have to go away, and I might have to leave them in the house or lock them up.

That has nothing to do with this Bill. The Bill is completely irrelevant to our discussions here. It is very poorly drafted. It is lacking in precise terminology. What is cruelty? We will be moving an amendment to say what cruelty is. What represents unnecessary pain? Are you going to ask the animal whether it has unnecessary pain? What is undue distress? What is meant by "confine" in relation to game parks? Does it mean a fence around it? What does alleviation of pain mean? Does it mean putting an animal out of its misery by killing it? How would you kill it? What is meant by pain and suffering in relation to the conveyance of animals? What is a medical procedure?

What are the codes of practice? These should be incorporated, where possible, in the Bill, so that we know what we are voting on. A code of practice could actually see Parkwood Eggs closed, pet shops closed, certainly practices pertaining to horseraces stopped, the transport of animals through the ACT prevented, and kennels closed. I could go on. Who will be appointed as inspectors? What will be the membership of the Animal Welfare Advisory Committee? What will happen to circus animals if they are banned or phased out? What compensation will be given to the circus owners, bearing in mind that they have not broken any laws?

These are not the views and concerns only of the Liberal Party; they are the concerns of the majority of organisations involved with animals with which we have consulted. The RSPCA is concerned with the issue. I shall seek leave to table a number of letters afterwards, Madam Speaker. The RSPCA are concerned that they have not been consulted on inspectors. The Australian Bushmen's Campdraft Association have not been consulted at all, and I would like to table a letter on that. Bartter Enterprises is concerned about their livelihood. The Circus Federation of Australia justifiably feel victimised.

The Australian National University's Animal Services Division would like to see annual reports of their activities so that they will be more publicly accountable. They have other concerns about bureaucratic red tape concerning the issue of authorisation certificates. None of that is covered in the Act. Last but not least - and my colleague has already quoted from it - I have a letter from the ACT Racing Club expressing three major concerns. They are: Lack of a definition of cruelty, the reversal of the onus of proof, and exemption for the racing industry. That letter was written by a lawyer. They have concerns about the Bill.

11 August 1992

It is recognised that the Bill is a start in tightening up the area of animal welfare, but the uncertainties in the Bill are causing unnecessary concerns in the community and unfair pronouncements against well-meaning and hardworking Australians. We support Mr Moore's amendment; but, once that is concluded, I will be moving my own amendment. There are many more to come.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (9.28): Madam Speaker, I am interested in members' comments. Thus far, perhaps with the exception of the question of circus animals, this has been a bipartisan debate on legislation that has been produced with the general support of all members in the Assembly. We are, believe it or not, discussing clause 4. We thank you, Madam Speaker, for your tolerance in this repeat in-principle debate.

I shall comment on a few of the matters members have raised. One of those - Mr Moore, I think, was the first to mention it - was my likely attendance at the animal welfare Ministers conference in a little while. I went to the first such conference last year and I found it as interesting and useful as any of the few ministerial conferences I attend. But that does not mean that there was agreement at the conference. I found that issue after issue brought considerable disagreement amongst members. Whether it was the docking of cows' tails or the way we control dogs or the question of rodeos, there was considerable disagreement from State to State.

I say that to caution you that it will be rather difficult to establish national codes of practice, as has been suggested here. Indeed, the more likely way we will go is to establish a model code of practice on which States will base their codes of practice. We can put into the model our own interpretation, our own strengths, what we want to be careful about. If a particular State does not want to have anything to do with the docking of dogs' or cows' tails, then it does not go into it. So there will not be, I expect, national uniformity on these issues.

The agenda for the forthcoming conference has not been determined, though I understand that I am about to be invited to raise matters for the agenda. I will be pleased to do so, and maybe I can raise some of the matters that are topical in the ACT and to which the ACT Government is giving consideration.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

ANIMAL WELFARE BILL 1992
Detail Stage

Clause 4 and the proposed amendments thereto

Debate resumed.

MR WOOD: Mr Moore referred to the clause in the legislation that enables me as Minister to make decisions about primates. I can assure you that so long as I am Minister I will be taking a great interest in that.

Mr Humphries raised the matter that is perhaps the core of the debate. He said that we on this side of the house could not conceive that circuses provide humane treatment to animals. They are roughly the words as I wrote them down. He said that we cannot understand that circuses could be good to animals. I do not think they can be. The fact of life is that, by means of caging, hobbling, confining, restricting and training, an unceasing reign of cruelty is imposed on animals. That is a matter we raised in the in-principle debate. It is simply not compatible with what in this day we should regard as humane treatment.

Mr Humphries further suggested that maybe we should treat exotic animals and domestic animals the same. The point was made by one of my colleagues that you can turn domestic animals out; they do not create a crisis when they are out in the community.

Mr De Domenico What about camels or feral cats?

MR WOOD: Feral cats are feral cats. I might say that feral cats are one issue on which animal welfare Ministers agreed - or cats in general. In this day and age there is a new vision in front of us, and what has been accepted as routine, normal treatment over so many centuries is no longer so regarded. This is a different world.

Mr Humphries: Then set higher standards. Do not ban them.

MR WOOD: Mr Lamont disputed that, and I agree with him. The cages are still the same; the chains are still the same. Nothing has changed in that respect. Mr Lamont was quite correct when he said that zoos have changed or are changing, but circuses have not. Further, Mr Humphries said - and I note this point - that we on this side of the house did not go and see the children enjoying themselves in Tuggeranong last week. I do not have any doubt that the young children enjoyed themselves.

Mr De Domenico: The parents did, too.

MR WOOD: And the parents, yes. But in this legislation we are looking at the animals. On this occasion, it is not the children we are considering. Over the centuries - I am stretching it a little - people have gone to circuses of a different nature, such as in the Colosseum, and witnessed all sorts of acts that we have subsequently decided were quite inappropriate. Our basic argument is that exotic animals in circuses are no longer appropriate.

Mr De Domenico asked why there have been no prosecutions. There are a couple of answers to that, and the first answer I have just given. It is in the realm of community perception of what is normal and proper, and we are moving from

11 August 1992

that into a more enlightened time. So there has not been the view that we should act on the occasions when a tiger has come in a relatively small cage, as it has been coming for decades.

Mr De Domenico: When did that change?

MR WOOD: I think we are now in the process of changing. Some of us are in the process of changing. Mr De Domenico and later Mr Westende got themselves into trouble with a double argument, if you like.

The second reason there have been no prosecutions is that the present Act, the Prevention of Cruelty to Animals Act, is simply inadequate. There is a whole page of definitions of cruelty. I am sure I have heard Mr Humphries in this chamber before today argue for simplicity in the law. Any solicitor, any legal person worth his or her salt, could drive a great vehicle through these definitions because they are so prescriptive. If you can find a case that is not covered, you are not guilty. It is as simple as that. In general, these days simple language, well understood, is better every time in legislation, and Mr Humphries nods his head. We need to get away from that page of definitions to what we have in the new legislation, which is something simple. I invite Mr Connolly to expand on that in due course. He can say it better than anybody else in this house.

Mr De Domenico, as with Mr Westende, raised the question of the lawyer, Mr Colquhoun, whom I do not know. He has raised the issue I have just covered. He claims that the new legislation does not define cruelty. It is my assertion - I believe that it is also Mr Humphries's assertion, judging from the nod of his head a moment ago - that simple language is better; that this legislation is a more effective way to protect animals and for those who deal with animals. To answer another one of Mr De Domenico's questions, I can assert that there are no problems for racing that they are not presently monitoring and controlling themselves. There are no problems coming up.

Mr De Domenico: Why do you not let circuses do that then? If the racing industry can do it, what is wrong with the circus industry doing it too?

MR WOOD: That is a very different field. Racehorses are not so totally confined over a long period, over all their lives.

Mr De Domenico: What about when they travel from place to place? They have less room than an elephant.

MR WOOD: I think you are rather stretching it if you think racehorses are treated in the same way as lions, tigers and elephants. Ms Szuty no doubt has great concern about animals, and I detect that she is undecided about where to go. Maybe we can lead her, if not today then in a short space of time, to a more enlightened view.

Mr Stevenson quoted statistics. Well, Mr Stevenson quoted Mr Stevenson's statistics, and he might be right. I would not want to stand up here and say that this is necessarily a majority view we are expressing, but it is the right view. Like Mr Stevenson, I am a representative, and I will back up what Mr Lamont said. In this Assembly we are also leaders; we have to provide leadership. I would not make any assessment of how the community think; but, if community support is not over that magical 50 per cent today, it will be in a very short space of time. It is up to members of this Assembly to be representatives. It is also up to this Assembly to provide leadership.

I have commented on a number of the points Mr Lamont made. Mr Westende, I think, reflected the complete confusion on that side of the chamber about this issue. Let me quote what he said; both Mr Connolly and I rapidly wrote this down when it was said. He said that he does not have a cat or a dog because he would not lock them up. He would not do it for a cat or a dog, but he would do it for exotic animals in circuses.

Mr Humphries: When he went away, he said.

MR WOOD: When he went away, at any time. It is all right for cats and dogs - - -

Mr Humphries: He could not look after them when he went away. You misunderstood.

MR WOOD: No; I heard it very well, Mr Humphries. He expressed an opinion about cats and dogs, but it is not going to hold for circuses. That is the view of the Opposition. It is one of confusion.

I have commented on codes of practice and the difficulty we will have with any national code of practice. Mr Westende was concerned about AWAC, the advisory committee. I have never seen a government - ours or yours or anybody else's - introduce an advisory committee or whatever committee may be established as a result of legislation until the legislation is there. This committee will be established properly in due course; that is the way to proceed.

Mr Westende made a comment about RSPCA concerns about inspectors and who is going to train them. I think he has his letters mixed up; it may be that he is talking about the Dog Control Act. He might want to check that. I do thank Mr Westende, who came to me in good spirit with a range of proposals and amendments. He and I had a meeting; my officers attended and went away and considered the proposals he brought in. I want to make it clear that there was every effort on his part and mine to find agreement where that was possible. In fact it has not been possible. There are a few minor amendments he may be moving later that we will accept, but the general thrust of this legislation the Government is determined to maintain. It is simply no longer appropriate for exotic animals to be part of circuses.

MS ELLIS (9.42): I would like to make a couple of observations in this debate, and in doing so I am attempting to broaden the debate slightly. I do not think we should be talking about the word "cruelty". It is a very difficult word to define for the people opposite and for the people in the community who may have a view of this subject different from that of the Government and Mr Lamont. What we are really talking about is attitudinal changes that need to come by natural means within the community. Attitudinal changes historically have already occurred as far as animal care is concerned. Zoo lobbies around the world have responded to attitudinal changes. The sorts of confines in which animals were kept in zoos in the past are now frowned upon, and action either has occurred or is under way to better them. You only have to go to Dubbo to see what I am talking about.

When we think about attitudinal changes occurring with animals of a different type, we think about whales. For heaven's sake, there were times when if a whale had beached itself we would have been fighting over the blubber. Today we see whales beaching themselves and hundreds and hundreds of people attempt to

11 August 1992

save them. Again, it is an indication of an attitudinal change within society. Likewise, I believe that attitudinal change is required in relation to the confining of exotic animals. Ecotourism around the world is growing at an enormous rate, and so it ought to. Our attitudinal change to the care of our environment and our eco-environment is very important. People will want to travel to far parts of the world on an ecotourism basis, but they will not want to go to the plains of Africa if none of the endemic animals are there.

That again is an indication of what I mean when I talk about the need for attitudinal change and recognition that it is occurring within the community. It is not a question of cruelty; it is a question of appropriateness. What right do we have, as one of thousands of species on this earth, to use exotic animals purely for cheap entertainment? What we ought to be doing is working and fighting together to ensure their existence. Think about the game parks in Africa; think about the problems the rangers have in Zimbabwe; think about the problems we are going to have in ensuring that the African elephant exists in years to come. I hate to think that in future the only way a child in this society is going to see an elephant is standing on a barrel in a circus.

There is no way that, in making those comments, I have no feeling for the circus families historically; but as a society we ought to be encouraging them to diversify and helping them to do that, encouraging them not to be scared of diversifying. The thing that has upset me most about the debate from the Opposition is that some people over there just cannot see what we are talking about. I hope to heaven that they start to.

MR HUMPHRIES (9.45): I have been listening to this debate patiently, waiting for the specifics of the case against circuses to be made out so that I and my colleagues can see exactly what it is about circuses that is alleged to be unfair and cruel. I have been referred by Mr Wood, the Minister, to the existing provisions of the Prevention of Cruelty to Animals Act, and he made reference to the so-called inadequacy of the provisions of that Act. I have looked at the particular clause to which he referred, and I think it is extremely comprehensive. I would be very surprised if acts of cruelty of the kind Mr Lamont spoke of do not fall within the ambit of that provision. In other words, if there were acts of cruelty going on in circuses in the ACT, they would certainly be caught by the provisions of the existing Prevention of Cruelty to Animals Act. Apparently that is not good enough, and we are going one step further.

What exactly is the case against circuses? Let us get down to tintacks. Mr Wood was good enough to mention some criteria that he considered put circuses in the league of being unacceptable. He said that animals in circuses were caged, confined, hobbled and trained and that this established a case of inhumane treatment of animals. Let us look at each of those in turn. The first criterion was the caging of animals. Mr Wood will be well aware that circuses are not the only place where animals are caged. They are caged all over the place in our community. They are caged in bird cages in peoples' homes. They are caged in egg production farms. They are caged in zoos. They are caged in laboratories around the country, where experimentation on animals takes place. They are caged in some peoples' homes. For example, when people go out they put dogs in cages. Caging is neither illegal nor unusual.

The next was confining animals. Confining and caging are much the same. Almost all animals used by or in other ways interacting with human beings are confined. It is necessary, in a sense, to have animals confined to be able to have that interaction going on. Surely confinement of animals cannot be a criterion on which to prevent their use in a particular capacity. The third criterion was that animals are hobbled. Racehorses are hobbled; certain farm animals are hobbled; certain domestic animals are hobbled. How does that constitute a basis for banning the use of them?

Mr Lamont: For 20 years?

MR HUMPHRIES: No circus animal is hobbled for 20 years, Mr Lamont. You know that as well as I do. The last criterion was that they are trained. Mr Lamont, I am sure, is not going to insult our intelligence by pretending that the only animals trained in our community are trained in circuses. All sorts of animals are trained: Guide dogs for the blind are trained; police dogs are trained; birds are trained to say things. There are all sorts of training.

Mr Lamont: You did not listen.

MR HUMPHRIES: I did listen, and those were the words Mr Wood used as criteria on which to ban circuses. Those were the words he used. All those things exist in other forms in society. Why do we not ban those other activities as well?

Let us turn to what Mr Lamont quoted on behalf of the RSPCA as constituting reasons circuses should not have exotic animals. "Animals exist in abnormal social circumstances" - I think that was the phrase he used. I assume that what he means by that is that they live their lives in ways in which they would not live them in the wild; they would not be doing things in captivity which they would normally be doing in the wild. That is undoubtedly true. Animals in the wild generally do not stand on barrels or stand on each other's backs or do other things they do in circuses. But, of course, animals in human society, of which there are countless millions, do all sorts of extremely unnatural things for animals. My dog sleeps on my bed. My dog jumps in the back of my car and puts his head out the window as I drive down to the shop. My dog eats chocolates out of my hand. Dogs do not do those things in the wild. No animals do those things in the wild.

My dog and practically every other animal in human society lives in abnormal social circumstances. Cows in the wild, animals with udders in the wild, do not consent to having other creatures come along and put metal clamps underneath them to suck milk out of them. Those things do not happen in the wild. They are abnormal social circumstances. But they do not constitute reasons for saying that we cannot deal with animals in those particular ways.

Mr Lamont: Put the whole quote on record again.

MR HUMPHRIES: You can quote it later, Mr Lamont. Another criterion was that animals in circuses were constantly travelling. I remind Mr Wood that many animals constantly travel. Racehorses constantly travel from meeting to meeting. I dare say that they travel more than most circus animals. Are you proposing to ban racehorses?

11 August 1992

None of these criteria, either by themselves or collectively, constitute a reason for distinguishing between circus animals and animals in other social contexts in our society. I have to ask the question again: Why are we singling out circus animals? We are making, with respect, anthropomorphic assumptions about what animals think in their various social situations. We are assuming that, because we human beings would find it uncomfortable, unacceptable, demeaning or degrading to be running around a circus ring waving our paws in the air or sitting up on our hind legs begging for food, it must be demeaning to animals. We are making an enormous assumption there.

I would contend, from my exposure to animals in captivity, not just in circuses, that those animals actually enjoy a lifestyle where they are cared for, fed, clothed, housed - not clothed perhaps - - -

Mrs Grassby: He dresses his dog up. Now we know what he does.

MR HUMPHRIES: My dog had a coat. He threw it away - he did not like the coat - but he did have one for a short while. Sheep have coats in cold weather sometimes. But that is beside the point. Animals are in a different social context. They have been trained to live in the human social context. We must look at them in that human social context.

Perhaps the worst thing of all about the way in which this Bill proceeds to ban circus animals is the sheer tokenism of it all. We live in a society where animals are exploited in a vast number of ways which this Bill makes absolutely no attempt to address. We conduct animal experiments; we use animals to experiment for the purpose of human beings' needs. We do not ban animal experimentation under this Act.

Mr Wood: We are going to draw up codes of conduct.

MR HUMPHRIES: But we still do not ban animal experimentation. Thousands of animals will be experimented on and will die in laboratories around this country, including in the ACT, even under this legislation. Places where hens lay eggs in battery farms will continue to exist. Thousands upon thousands of eggs produced every day for our consumption will be testimony to the fact that we continue to exploit animals in this community. By far the biggest reason why this constitutes tokenism is that every one of us in this room, with perhaps the exception of Mr Stevenson, consumes animal products. We eat tonnes and tonnes of meat in our lifetimes. We drink milk, eat eggs and wear animal fibres and leather shoes. All of us do that. We kill millions of animals for our own basic human wants. Yet we say that we cannot have animals performing in circuses. What sort of tokenism is that? It is sheer and utter tokenism.

To deal briefly with the point Mr Wood made, simplicity in legislation he said is very good. I certainly support simplicity in legislation, but not when the brush is so broad and so simplistic that it results in injustices. This unquestionably results in injustices. If circuses are cruel, then rely on broad provisions if you like, that ban cruelty to animals. Do not say that we are going to rule ipso facto that circuses are cruel to animals. Exempt them, if you like, from the cruelty to animals provisions. If you say that social circumstances are changing, fine.

Enforce new social standards on circuses. Say that we as a community now insist that we have larger cages for animals and more exercise time and better conditions for those animals. But do not say that the circuses must, by virtue of their very existence, be cruel to animals. Say how they are cruel and enforce those standards.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (9.55): Madam Speaker, I wish to rise briefly in this debate to make a couple of general points and then to respond to a rather more technical argument about definitions. I must say at the outset that when Mr Lamont argued in the Labor Cabinet the case for his amendments he certainly convinced me in my head, but it took the Liberal Party stunt to convince me in my heart that what we were doing was right. I went out and saw those elephants in that semitrailer. Mr Berry and I were having lunch over our papers up on the fifth floor. We saw that semitrailer down there and we went down to have a look. When I saw those elephants, shackled, hobbled, in close confinement, up to their fetlocks in faeces, weeping and moving from side to side, Madam Speaker, I was distressed, and I thought - - -

Mr De Domenico: So were the elephants, Mr Connolly.

MR CONNOLLY: Indeed!

Mr De Domenico: When they saw you, they were distressed.

MR CONNOLLY: Madam Speaker, Mr De Domenico makes my point. As I said to the media at the time, the elephants made the point far more eloquently than I ever could. I heard Ms Szuty, in her remarks earlier on, refer to the dignified and awesome sight of an elephant. She was referring to seeing them perform.

Madam Speaker, it was pitiful, in my view, to see these dignified, awesome animals hobbled, in close confinement in the back of a truck, up to their fetlocks in faeces. These pitiful local politicians were running a publicity stunt around them. A candidate, a would-be member for Canberra, was running around, doing stunts, feeding them food, to get a bit of cheap publicity for a Federal election campaign. It was a pathetic exercise; but it certainly convinced me, in my heart, of what Mr Lamont had already convinced me in my head, namely, that we as a society can do better than to tolerate that sort of thing with - again to borrow Ms Szuty's quite appropriate words - dignified awesome animals like those elephants. So, Madam Speaker, I believe that what is being proposed in this substantive amendment is a forward step for our society and that we as a society can do better than to hobble these animals and display them for amusement.

Having said that, I want now to move into a more technical argument which Mr Wood foreshadowed. It has been proposed by the Opposition that we should expand upon the definition of cruelty. It is proposed to move a very extensive one-page expansion of what we mean by cruelty. As Mr Wood said, the Liberal Party regularly calls for simple legislation, and my friend Mr Humphries regularly says, "Let us have simple legislation; let us not have technicalities; let us put it in plain English". That is a very sensible call from any spokesperson on legal matters. What this Bill proposes to do is to simply create an offence of cruelty and, in effect, leave it to the courts to define cruelty in the circumstances, because cruelty, generally speaking, is a term that is capable of understanding

11 August 1992

and our courts comprise reasonable men. I would hope that during the course of this reformist Labor Government they will comprise reasonable men and reasonable women; but at the moment they comprise reasonable men and they can come up with definitions to suit the moment.

The problem with going to this very long definition, as Mr Humphries would well understand or well acknowledge, is that when you attempt to exhaustively set out the circumstances of what constitutes cruelty you create the opportunity for loopholes. To give a brief example - I have looked at this only briefly - one of the definitions in paragraph (b) of the foreshadowed amendment is "knowingly overloads or overcrowds an animal". In some sections we have "knowingly" and in some sections we have "knowingly or negligently". In paragraph (d) we have "knowingly or negligently does an act or omits to do an act which results in pain, suffering or distress to an animal".

Overcrowding an animal negligently could well, you would think, fit within paragraph (d) - "knowingly or negligently does an act which results in pain" - but, of course, the lawyer would argue, "Your Worship, overcrowding has been expressly dealt with in paragraph (b) and the legislature has said 'knowingly overcrowds or overloads an animal'. So the broader definition in paragraph (d), which is general, must be read down to the specific offence in paragraph (b), which is a specific 'knowingly overloads or overcrowds'". It just creates wonderful grist for the mill of the legal profession, and that is just comparing two provisions. When you get from paragraph (a) to paragraph (p), you really have an enormous scope for causing confusion.

Mr Humphries says, "Why should circuses be dealt with differently?". I think that is essentially a debating point for this issue of what we should do with circuses, and we can all differ as to that. In the general proposition, I would say to members that the general definition of cruelty in clause 7 ought to be simple, plain, English-Australian, "A person shall not, without reasonable excuse, commit an act of cruelty", without an exhaustive definition of what constitutes cruelty, because when you create these exhaustive definitions you do get to the point where you create loopholes and it can get to the absurd. I think probably the high point of this was the first draft of the Commonwealth Corporations Act which had about 200 pages of definitions. In fact, the definitions section in that Act is called "the dictionary section", and it has virtually reached that point. You can get to the point where you define every word in an Act and the whole Act comprises definitions.

The point that Mr Wood made is a very valid one. Let us, when we can, use plain English, because plain English is often the best way to express an idea. When you try to break it down into a multiplicity of specific examples you are opening the door to clever lawyers to run points, to, in effect, draw circles around what we have tried to do and get away from our basic concept. I would urge members, when we get to the detail, to bear that in mind and stick to the plain, simple, English-Australian term "cruelty" rather than to define it.

MRS GRASSBY (10.02): Madam Speaker, I have not had much to say on the Animal Welfare Bill or Mr Lamont's amendments, basically because I thought they were all commonsense. I was a bit surprised that anyone would want to postpone this, as the Independents did for seven weeks. I think it is an important Bill. I have been to many circuses, and the ones that I have enjoyed the most are

those where the people do the acts. What some of these people can do is very clever. I have just come back from London and more and more circuses overseas are banning animals and are using more people. One of the most exciting circuses I ever attended was our Flying Fruit Fly Circus, because everything is done by young people. It is incredible what they can do. Obviously they are training for a much larger circus later on.

I think Mr Humphries was talking about unions earlier and I told him that as a lawyer he belonged to one. He denied that and said that it is an association; but it looks after lawyers, so I would say that it is a union. Animals do not have any union or any association that they can complain to if they have not been looked after. If you have a person doing acts in a circus, the better they do the acts, the more money they demand; therefore they cost a lot more money. An animal cannot ask for extra pay and it cannot ask for better conditions. I am not saying that the circus that was here recently treated its animals badly. I cannot say that because I was not there. I did not go and see the circus. I was overseas.

Mr De Domenico: Well then, why ban them?

MRS GRASSBY: That is not the point.

Mr De Domenico: It is. That is what you are doing.

MRS GRASSBY: Mr De Domenico, my father used to say to people when they came to work for him, "Do you belong to a union?". When they said no, he said, "Well, go away and join one". They could not understand why. "You are a good boss," they said. He said, "Yes, I am; but the next one might not be".

I cannot speak about the circus because I did not go and look at it. The circus here might have been careful with its animals but I have seen circuses that are not careful with animals. I have seen animals standing out at Woden in the boiling hot sun in the summertime, chained to a block and walking round and round it. I have seen tigers and lions in tiny cages. They cannot do anything but sit down because there is no room for them to move around. To me this is cruel. We are even getting away from that in zoos now. We make large parks where they can roam around and you can sit or drive in your car and see them.

Why do we need to have animals doing acts? We have enough people, particularly in here, doing acts without going to a circus. I look across there and I can see quite a few circus animals.

Mr Kaine: You are doing your share, Ellnor, I must say. You are very entertaining.

MRS GRASSBY: I am quite sure, and I am quite sure other people think so; but I would be a long way behind being as good as you lot across the other side. I do not think we need to see animals being used and being chained up. You cannot get an animal to do something without prodding it. They prod the animal to get it to do the act all the time.

Mr De Domenico: Is that a racehorse as well?

MRS GRASSBY: I tell you right now that I would not like to see anybody whip a horse in a race. I am not sorry to see a horse racing - - -

11 August 1992

Mr De Domenico: But they do.

MRS GRASSBY: Yes, I am sorry; that is a part I do not like about it. I think it would be much better to see a horse win because it was so much better than the others. You do not need to whip it to get it to win. You do not need to whip a child to get a child to be good. You get a child to be good by giving it love. I think you get an animal to be good by giving it love too. Mr Humphries has just told you all the wonderful things he does with his dog. Obviously quite a few people would like to be one of his dogs. They get better treatment than some people get.

Mr De Domenico: I think you are barking up the wrong tree there, Ellnor. You will not have a leg to stand on there.

MRS GRASSBY: I am sorry, Mr De Domenico; I cannot see any water in your argument because obviously you do not care about animals.

Mr De Domenico: I do. I just do not ban them.

MRS GRASSBY: I do not think you do care.

Mr De Domenico: I do not want to ban them, though.

MRS GRASSBY: If you do not know about it, it does not matter; it does not matter what they do about it. It is unfair to see an animal in a cage. It is unfair to see an animal of any kind chained up. I do not care what animal it is. I hate to see a dog tied up. An animal is meant to be free and to be able to walk around, not to do tricks. Get the people to do the tricks and pay them well to do it, and the more you pay them the better tricks they will do.

MR CORNWELL (10.07): I must say, Madam Speaker, that I have found this to be an extraordinary debate.

Mr Lamont: Educational, at least.

MR CORNWELL: You may find it so, Mr Lamont, although your speech, your longwinded speech, did not really indicate that. You insulted a couple of people who, as Mr Westende rightly pointed out, were in no position to respond, which I think is an extremely cowardly method of behaving. I waited to hear what you had to say in order to make notes. I have to say that, apart from making a note about your objectionable behaviour towards Mrs Ashton and Mr Perry, I really have a blank space under your name.

I did, however, note that you did not appear to apply your criticism of the treatment of circus animals to all circus animals, any more than any of you have attempted to apply your criticism of the treatment of animals to all animals. If you people feel so strongly about the treatment of animals, in what clause of this piece of legislation do you intend to ban racing? We hear a great deal of talk from you people opposite.

Ms Follett: Well, move the amendment if you want to do it.

MR CORNWELL: We are not supporting this. It is your Bill.

Ms Follett: You are the ones who keep talking about it.

MR CORNWELL: How can you differentiate between what you claim is the treatment of some animals, selective animals, in a circus and other animals in terms of what you perceive to be cruel, which, I might add, is undefined? I suggest - to use Mr Wood's words - that if you leave it undefined lawyers will indeed be able to drive a bus through it. It will, in fact, be a real bonanza for the law.

I was interested to hear Mr Connolly's comments about the need for simplicity in legislation. I idly flicked through this Animal Welfare Bill and I found what I do not regard as a simplistic phrase at all, something called "undue distress". What exactly does "undue distress" mean? Perhaps Mr Connolly might tell me later, in simplistic legal terms, of course, just what "undue distress" means. I am afraid I do not understand it, Mr Connolly, and it is in your Bill.

Mr Connolly: You do not need to define every term.

MR CORNWELL: Oh, "You do not need to define every term", he says. I acknowledge the interjection. I see; we are going to have selective terms. Of course, this is the problem with the whole Bill, because it is directed at selective areas. Mr Wood talked about community perception. The community perception, thanks to Mr Stevenson's poll, indicates that some 58.8 per cent of people are against - - -

Mr Connolly: Be careful of these Dennis polls.

MR CORNWELL: All right. The fact is that Mr Stevenson has quoted this. You may not agree with the figures, but 58.8 per cent of people said that they were against banning the circuses and 28.5 per cent were in favour. Mr Wood goes on to say, "Well, just because it is not over 50 per cent, eventually we will reach 50 per cent or more". Mr Wood, you are going to have a long time to wait, at 28.5 per cent.

Once again we have this Labor Government seeking to change by law something which is not supported by the majority of people in this Territory. Once again the Labor Party has this hang-up - that is the best way I can describe it - towards wanting to control everybody's life. They have now got to the stage where, even with circuses, they are attempting to say what young children will watch or what they will see and what they will allow their parents to take them to see. Any of you people who have any doubts about this should have heard the roar at the circus when I mentioned this matter to the people concerned. The parents were not happy about you people telling them what they will watch and what they will not watch. Mr Humphries refers to it as tokenism; I call it nannyng. I find repeatedly that this Government seems determined to control people's lives in this Territory. This, I believe, is yet another example of it. I do not support it. I believe that in the long run the people of this Territory will turn against this brand of socialist control.

All I can say in terms of this Animal Welfare Bill, in conclusion, is that it is, in fact, an exercise in, I believe, duplicity and, indeed, hypocrisy. You have selected certain circus animals only for your attention and you have failed to address the wider ramifications. You have certainly failed to address the issue of animal welfare itself because, as you all know - and Mr Lamont, who claims to be the expert, perhaps more than anybody else - the question of animal welfare extends far beyond a few exotic species of animals in circuses.

11 August 1992

MR STEVENSON (10.13): Mr Lamont earlier quoted Edmund Burke. Three years after that quote Burke said:

If any ask me what a free government is, I answer that, for any practical purpose, it is what the people think so - and that they, and not I, are the natural, lawful, and competent judges of this matter.

We have surveyed people in Canberra on the specific issue of whether they feel that elected representatives in this Assembly should follow the majority expressed will of the people or that the representatives should follow the directives of the party. I believe that 80 per cent felt that they should be supported by their local representatives, and 12 per cent voted for the party. Mr Lamont mentioned earlier that we are responsible to the electorate. That is indeed the case; however, often we do not vote that way.

There are a couple of small points I want to make. Mr Lamont mentioned earlier about giving free tickets to the circus to two-year-olds. Indeed, they were free and a lot of people would go along to something that is free when they may not otherwise. But if we go back to the recent Ashton's Circus, when 27,000 people paid, perhaps that is a fair indication of the endorsement of people of circuses in the ACT.

There is one final point I feel I should raise. Really, regardless of what we think about any issue ourselves, I feel that we should go along and look at someone else's view or at least allow them to come to us and listen to their view. Some time ago, when Mr Humphries was Minister for Education, he went along to meeting after meeting after meeting and had, I think, the hottest time of any Minister in this Assembly; but he kept going to present himself before quite hostile groups and was prepared to make his points and listen to other viewpoints. That was commendable.

I think it is unfortunate - I believe this to be the case - that members of the Labor Party were not prepared to have discussions with people who work for or who operate circuses.

Ms Ellis: It is not true.

MR STEVENSON: You did?

Ms Ellis: I met Mr Perry and asked him to call my office and see me and I never heard from him.

MR STEVENSON: That is a good point. I congratulate you for that. I know that Mr Lamont had a brief chat to someone when he called into the office. I think other members in this Assembly have learned a lot - I certainly have - about circuses and animals and so on from both sides of the debate. I think some of us have changed some views in some areas. That was only because we had been prepared to speak freely with other people and to debate the matter. I think it unfortunate that that was not the case. However, as I said earlier, I feel that the will of the people should be followed and that will is clearly that we do not ban circuses in the ACT.

Question put:

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

The Assembly voted -

AYES, 9

NOES, 8

Mrs Carnell

Mr Berry

Mr Cornwell

Mr Connolly

Mr De Domenico

Ms Ellis

Mr Humphries

Ms Follett

Mr Kaine

Mrs Grassby

Mr Moore

Mr Lamont

Mr Stevenson

Ms McRae

Ms Szuty

Mr Wood

Mr Westende

Question so resolved in the affirmative.

MR WESTENDE (10.20): Madam Speaker, I would like to move a further amendment, circulated in my name, to Mr Lamont's amendment. I move:

Proposed new definition of "prohibited circus animal", omit paragraphs (b) and (c), substitute the following paragraphs:

"(b) cheetah, giraffe, puma; or

(c) beyond the year 2000, an elephant, lion, tiger or leopard."

We have canvassed most of the opinions on this matter already. I have spoken to Mr Wood and said that we would give bipartisan support if they treated all animals equally. I come back to this point: Why should we exclude so-called exotic animals? For instance, camels are a nuisance in Central Australia, but a camel can be a domestic animal. It was once an exotic animal, but it was let loose. Are we going to let 160 lions and 18 elephants loose in Central Australia and make them domestic animals by just releasing them? If so, would they then fall within the meaning of the Bill?

Mr Connolly: They would sort the rabbits out very quickly.

MR WESTENDE: The rabbit is a domestic animal, but it is also a nuisance. You are going to ban those animals just because they are so-called exotic animals. They have just as much instinct, just as much nous, as any other animal. Just because the term "exotic" is applied to them, why should they be excluded? We know, for instance, that there are no cheetahs, giraffes or pumas in circuses; so, just to test the water, we will include those as animals that could be prescribed as a prohibited animal.

Furthermore, in regard to our second paragraph, if those animals are indeed exotic animals and if you want to phase them out, give those people who make their livelihood with and through them an opportunity to amend their acts with or without those animals. Give them some time. After all, when you are reconstructing a business - I have some experience in that area - you cannot do it overnight. You have to plan and act accordingly. You have to set new targets

11 August 1992

and make new finance plans. The circuses are no different. If they have to start amending their acts to exclude those animals, at least give them some time. Therefore we have included in our amendment "beyond the year 2000". We feel that that is a reasonable time for the circus people to make up their minds about what they can and cannot do with their animals. A lot of those animals could not go in zoos, not even the great Western zoos. Some of those animals would not be accepted by zoos. Therefore, we believe that it would be far more humane to the animals and to the humans who relate with those animals - that is the circus owners - to give them a reasonable time. We believe that that is not unreasonable.

Irrespective of the debate from both sides of the house, circus people today do not think as they did 20 or 25 years ago. The circuses have their own voluntary code of ethics. I have a copy. In the old terminology, it is an inch thick, or 2.5 centimetres if you like. As we have said here before, in the last few years not one circus has been convicted of an act of cruelty. They are allowed to have domestic animals such as horses and dogs in the circuses. The exotic animals are no different from the animals that are so-called domestic animals.

Furthermore, this whole thing is supposed to be about cruelty. Horses carried in a horse float have far less room than the animals had in those semis that were parked here. They go from Sydney to Melbourne with two drivers. They change in Albury. They do not stop but go straight through for eight hours. Greyhounds spend most of their time in their cages. The only time they are let loose is on the track. Some concerned owners might exercise them for an hour down the street. They are continually muzzled. As I said before, if this Government is genuine, let them include all domestic animals, such as horses and greyhounds. The cruelty to those animals is no different from the so-called cruelty to the exotic animals.

I have here some photos of elephants exercised in Sydney - one of February 1990 and one of February 1992. It was said before that those animals do not get any exercise.

Mr Lamont: Once every two years is not bad.

MR WESTENDE: They have taken photos once in two years because they did not think they needed proof for people like Mr Lamont. They accepted that people knew for a fact that those animals get exercise. I cannot see any difference between so-called exotic animals and so-called domestic animals as far as treatment is concerned. Madam Speaker, if you devise a national code of ethics, if you want a bipartisan approach to animal welfare, we are more than willing to cooperate, as I have already indicated to Mr Wood. The law should be equal to all animals. It should make no distinction between exotic and other animals.

MR KAINÉ (Leader of the Opposition) (10.28): Madam Speaker, I have not taken part in the debate tonight. I think it was Mr Wood who complimented you on allowing the debate to run so widely. In fact, I take the opposite view. Much of the debate that has taken place tonight should have taken place before this Bill was agreed to in principle. I would hazard a guess that, had it done so, the Bill might not have been agreed to in principle. However, that did not take place, and it did not take place for a number of reasons; but I will not go into that.

Right now one would never know from the debate that has gone on tonight that we are, in fact, debating clause 4. We have been all night, according to the rules of debate and the standing orders of this house. Clause 4 has to do with

definitions. What Mr Lamont seeks to do is insert a new definition. Mr Westende is trying to amend that definition. I think that we should focus on this. A lot of the debate has been totally irrelevant to the point at issue at this stage.

People have been using words like "exotic". Exotic animals are not defined in this Bill, so when people talk about exotic animals I do not know what they are talking about or how that relates to this Bill. There are about four or five definitions that do relate to animals. First of all, there is a definition of "animal". It says that an animal is an amphibian, a bird, a fish, a mammal and a reptile. It does not include humans. There is a definition of the word "domestic", which, we are told, in relation to an animal, includes captive animals. There is a definition of "feral animal", and that is an animal, other than wildlife, that does not live in a domestic state. There is a "pest" and that does not include a domestic animal or wildlife. "Wildlife" means an animal that is wildlife within the meaning of the Nature Conservation Act. So when people have been talking about exotic animals tonight, what do they mean? It does not mean anything in the context of this Bill.

Mr Wood: Yes, it does.

MR KAINE: No, it does not. Presumably, by definition in this Bill, there are only domestic animals and other kinds of animals. If an animal is a captive animal it is, by definition, a domestic animal. That means that elephants, cheetahs, tigers and lions that are in captivity in a zoo are, by your own definition, members of the Government, domestic animals.

Mr Lamont belatedly, after his Government drafted this Bill, suddenly had a better idea. It is interesting that he had to persuade his own Cabinet that he should amend their Bill. It was not a part of their original proposal, so now he comes along and he tries to define prohibited circus animals. By his own definition, by the definition of this Government in their Bill, all of these animals have something in common with all other animals - they are all domestic animals. So what on earth are we talking about? There has been some debate about treating some animals differently from others. In fact, we are now, by your own definition, treating some types of domestic animals differently from other kinds of domestic animals - by your definition, not mine.

What Mr Lamont has tried to do is very interesting. His definition had to be amended anyway because, amongst other things, he defined prohibited circus animals as meaning, for example, bears, cheetahs, giraffes, leopards and pumas. As far as I am aware, there are none of those animals in any zoo in Australia. So why are we making them prohibited animals? There are none in zoos. Mr Lamont has gone just a little bit over the top. If we really look at what he is saying here, he is saying, and we have amended it already, that he does not want primates, elephants, lions and tigers to be allowed in zoos.

Mr Humphries: Circuses.

MR KAINE: Circuses. But he goes further and he says that an animal prescribed under section 51A shall not be allowed in a zoo either. He does not know what that means and I do not know what that means. I will bet that none of you in this room know what that means. But it will allow the authority appointed under this Act to identify any animal under section 51A as being an animal that cannot be put in a zoo.

11 August 1992

Mr Moore: But it is a disallowable instrument in this Assembly.

MR Kaine: Well, maybe; maybe not. I do not know what he means. If he thought that there were other animals that ought to be banned, why did he not identify them? Does he not want zebras in zoos, for example? If he does not want them in zoos, why did he not say so? Interestingly enough, zebras, by no definition, could be domestic animals. As far as I know, they have never been domesticated. But he does not want them excluded from zoos, apparently, because he has not included them in this.

Mr Lamont: Circuses. This is about circuses.

MR Kaine: Circuses. I am sorry; I have a fixation about zoos. I have that fixation because I am worried about our little zoo down on Mugga Way. We are talking about clause 4, Madam Speaker, and, by their own definition, an animal may not be confined by any device or contrivance which impedes or prevents freedom of movement of the animal.

That means that you cannot put any sort of animal in the Mugga Lane Zoo. The people who are running the Mugga Lane Zoo had better look out because as soon as this is passed their zoo becomes illegal. The confining of animals down there, by putting a fence around them, impeding them with a device or contrivance, becomes illegal. If a fence is not a device or a contrivance, I do not know what it is. If they put a fence around an animal in the Mugga Lane Zoo they are guilty of an offence which, by your definition, members of the Government, is going to cost them 10 grand, or a year in gaol, or both. This, Madam Speaker, is an absurdity. That is why I say that, if we had had the debate that we have had tonight before the Bill was voted on in principle, none of the thinking people in this room would have voted for it in principle; they would have thrown it out where it belongs.

When we get down a little further on the definitions, we discover that, if anybody goes down to the National Aquarium and throws a line into their trout pool and pulls out a trout, the management is guilty of an offence that is going to cost them \$10,000 or a year in gaol, or both.

Mr Lamont: That is such a long bow that not even you could carry the arrow.

MR Kaine: It is not a long bow. You said that people should read the Bill. You should read it. We are talking about definitions, Mr Lamont. Listen carefully. "A game park" means premises where animals are confined and the taking or killing of those animals as a sport or recreation is permitted on payment of a fee. Fish are defined as animals, according to your definition, and at the National Aquarium they are confined in a game park under that definition.

Mr Lamont: Madam Speaker, I raise a point of order. I would hope that the Leader of the Opposition would address the amendment that is before the chamber and not waffle on about matters that come up elsewhere in the Bill.

MR Kaine: You ranged far and wide, Mr Lamont, and you had 20 minutes to do it.

Mr Lamont: Madam Speaker, I seek your ruling on the point of order.

MADAM SPEAKER: I believe that you will be relevant, Mr Kaine.

MR KAINE: I am trying to point out to Mr Lamont and to others, after looking at the definitions in this Bill, that they have defined themselves into a hole where people carrying on legitimate business enterprises in this city are going to be subject to a \$10,000 fine or one year's imprisonment, or both.

Mr Connolly: That is twaddle. The zoo is covered by clause 9. There is nothing wrong with confining an animal.

MR KAINE: If you look at clause 18, subclause (3), the definition of "game park" - - -

Mr Lamont: Mr Connolly, do not worry. This is the ring-a-ring o'roses they have been playing all week.

MR KAINE: It is not ring-a-ring o'roses. People sitting in the visitors gallery and people out there in the wider community ought to be aware of what you people are doing in this Bill, because that is what it means. You can weasel your way out of it, but that is what it says unequivocally.

Madam Speaker, Mr Westende is trying to get some sense into this definition. If we are to have animals that are going to be prescribed in terms of whether they can be held in a circus or not, at least let us have some logic to it. What he is saying is that we will not have cheetahs, giraffes or pumas. There are none of those now, but he has separated them from the rest. Then he says that beyond the year 2000 we will not have any of these others either - elephants, lions, tigers or leopards. Those are the ones that are in fact in zoos now. That seems to me to be a reasonable breakdown of the definition. It does allow decisions to be made by the owners and operators and users of these animals as to what on earth they are going to do with them. That seems to me to be eminently reasonable.

Members have been talking about the changing attitudes of society. I do not disagree that attitudes are changing. Let us accept that. Perhaps attitudes about animals in circuses and zoos are different from what they were 10, 20 or 50 years ago; but to lower the boom and say, "Tomorrow you cannot have those animals" begs the question of what on earth they are going to do with them. Somebody facetiously said, "We are going to turn them loose like the camels out in Central Australia". Well, I have a better idea. Turn them loose in Namadgi and it will keep the hikers away, at least for a while; but they will not last long in the wild anyway.

What are these people going to do with these animals if you lower the boom tomorrow? Let us have some reasoned, logical approach to the question. Let us accept as fact - I do not accept it, but let us accept it for the purposes of the argument - that attitudes out there in the community are changing. Okay; let us approach it in a logical and sensible way, and let everybody get out of their present situation in a sensible way, with some sensitivity and some decency. I do not agree with the general proposition of cracking a walnut with a sledgehammer. This is what this attempts to do.

MADAM SPEAKER: Mr Kaine, your time has expired.

MR KAINE: All I am saying to people is that before we vote on Mr Westende's amendment, they should think about what it means. Set aside the emotional debate that has been taking place all night, most of which has been irrelevant to

11 August 1992

this point anyway, and look at this amendment. What does it mean? What are the net effects of it? I submit that if you do that you will support Mr Westende's amendment because it is eminently sensible.

MR LAMONT (10.40): I rise to speak in opposition to Mr Westende's amendment and also to address some of the issues raised by Mr Kaine. Assuming that he was reported correctly in the *Canberra Times* last Sunday, and if I have understood what he has said tonight in presenting his arguments, this is one of the more novel ideas to come out of the Liberal stable. It is suggested that because people's livelihoods are involved in the use of these animals the legislation should, rather than impose an immediate ban, set a phase out date of eight years from now so that circuses can gear down their animal operations. That, I understand, is the thrust, both of what Mr Westende said on the weekend and of what he has said again here this evening, and that has been parroted by Mr Kaine.

I suppose I should be at least somewhat grateful to Mr Westende because his idea at least implies some recognition of the fact that animal suffering is taking place and that something should be done about it. So do not let anybody accuse me of being ungenerous. To the courageous members opposite, Mr Westende, congratulations. Congratulations on your rather belated conversion on the road to Damascus; well done. Unfortunately, though, this idea simply will not work.

Madam Speaker, I make no secret of the fact that I would like nothing better than that the ban should spread across Australia like wildfire. Unfortunately for the animals involved, that is not going to happen. This area of policy is largely in the hands of municipal governments, so there is unlikely to be any blanket change to the law. Each will have to go through its own process of change, as we have done. In the event that State governments were to take up the cause, our own process, which started four years ago, would have to be repeated in each case. I imagine that the larger States would take even longer than we have to come to this conclusion. So there is likely to be gradual change for at least a number of years - probably longer - in which the circuses can learn, as zoos have done, to change their ways.

If this is so, I hear Mr Westende protesting, why not signal that timeframe in the legislation? The reason is that there is a great deal of difference between setting in train events for circuses to change and saying to the circuses that there are no limits to their operations now but in 10 years' time we are going to be really resolved about making them give up these animals. If the last seven weeks has taught us anything about this issue, it is that the circus industry does not, of itself, change that dramatically over long periods.

I believe that in the last seven weeks we have seen a shameful use of the gullible emotions of children to obfuscate the issues involved and to challenge the democratic authority of this Assembly. That circuses fear a spread of the ban is at least a recognition on their part too that this ban is not merely an extremist plot. Mr Deputy Speaker, were we to give them a target date of, say, eight or 10 years, you could guarantee that, come the day in eight or 10 years' time, the number of exotic animals in circuses would undoubtedly have been dramatically increased, not decreased. The cry from the circuses would then be, "But how can you close us down when we have all these unwanted animals?". No thanks, Mr Deputy Speaker. This is a practice which needs to be stopped. If it takes 10 or 20 or 30 years, it is better that we get a start at ending it now rather than trust the word that in the past has not delivered, in my view, any substantial change.

In addressing some of the issues raised by Mr Westende when he presented his amendment, I want to cover the question of the critique provided by Animal Liberation. Mr Deputy Speaker, when the Assembly discussed this matter seven weeks ago members had in their possession a copy of a document showing a list of incidents of particular cruelty to animals. The list was compiled by Animal Liberation's president, Mr Tony Clunies-Ross. That list - an extremely good document, in my view - was the subject of a critique from the circus lobby which purported to rebut each one of Mr Clunies-Ross's allegations. The Opposition has now sought to use this critique to claim that allegations of cruelty in circuses are without basis. As I have already said elsewhere, whatever the veracity of these claims, the fundamental fact is that the unavoidable aspects of circuses, which demand the caging, chaining and lengthy transporting of animals, constitute cruelty which circuses can make no excuses for.

Just to set the record straight, I have in my possession a critique, prepared again by Mr Clunies-Ross, of the circus lobby's critique, in which Mr Clunies-Ross refutes in detail every point made against his original list. To save the Assembly's time, I propose to table the document. However, if members would prefer, I am prepared to read it into *Hansard* in its entirety.

Mr Kaine: No thanks.

MR LAMONT: Thank you for that. The crucial point of our purpose, Mr Deputy Speaker, is the challenge Clunies-Ross makes to the circus lobby, in the last paragraph of his letter, to take him to court over his allegations. Note that he has made them more than once and, if they are not true and are not defensible in a court of law, he would clearly be guilty of defamation. So the challenge is there. If they are not true, if they are, in fact, defamatory statements, there is a process at law by which the circus lobby or any other individual can seek a remedy if they believe that they have been defamed. To date, the circuses have remained silent on that matter.

Mr Deputy Speaker, I seek leave to table for the Assembly a document headed "Response to Circus Fans of Australia's 'Critique of anonymous article: List of incidents involving Australian circus animals'".

Leave granted.

MR DEPUTY SPEAKER: The question is: That Mr Westende's amendment be agreed to.

MR LAMONT: I beg your pardon, sir; I still have, I think, two minutes left. Mr Deputy Speaker, I propose to make this my last contribution to this lengthy debate.

Mr Humphries: Hooray!

MR LAMONT: I think that the members opposite should be thankful, for to be humiliated any further would just wash them once again. Mr Deputy Speaker, Mr Perry and other supporters of animals in circuses are fond of saying that if their treatment of animals was cruel people would not attend in the numbers they do. Leaving aside the fact that those numbers are certainly down on years gone by, whether or not people attend the circus is hardly proof that circuses are not cruel.

11 August 1992

The first thing to say is that, until recent times, most of us have not bothered to look behind the happy facade of the big top. The reassurances of the circuses have provided us with one of society's most comforting myths about the relationship between humans and animals. However, the realities of our appalling exploitation have rather dented the cosy image of man, the strong hunter, in control of the creatures of his domain. Most of us, until recently, have lacked the perceptiveness of someone like Albert Schweitzer, who, more than half a century ago, saw through the mythic surface facade to see brittle human egos at work when he said:

The exhibiting of trained animals I abhor. What an amount of suffering and cruel punishment the poor creatures have to endure in order to give a few moments of pleasure to men devoid of all thought and feeling.

Mr Deputy Speaker, an increasing number of people have now begun to see circuses in relation to the use and exploitation of exotic animals with the same clarity as Schweitzer and to recognise that the cruelty has its roots in inhuman indifference and insensitivity. I would suggest, on what has been put tonight, that no-one exemplifies this better than certain members of the Opposition. Unwitting cruelty is also something which characterises juvenile behaviour, and I will not draw the obvious conclusion in relation to that.

The second point to make is that not only have more and more people begun to see circuses in relation to this question as cruel, but more and more people have come to recognise that other types of barbarism are also inappropriate in a civilised society. The sad truth, Mr Deputy Speaker, is that there are still people in our society who will flock to cockfights and fights between pit bull-terriers. I have no doubt that, were we to reintroduce public hanging, this also would pull some supporters to watch it. I do not accept, Mr Deputy Speaker, the argument about popularity. I suggest that it is entirely fallacious and, in reality, not worthy of serious consideration.

MR DE DOMENICO (10.50): Mr Deputy Speaker, I rise very briefly to suggest to Mr Lamont that he stood up and once again made mention of the names of people who cannot defend themselves. We have grown to expect that sort of behaviour from Mr Lamont. Unlike Mr Lamont, I will not ask to have something tabled. I will read something to you, Mr Deputy Speaker.

Mr Lamont: Is it very long?

MR DE DOMENICO: No, it is not very long, Mr Lamont. It is a letter from a firm of solicitors called Stedman Cameron and it is addressed to Mr T. Clunies-Ross, who I assume is the same person that you quoted and who at that stage was vice-president of Animal Liberation - Victoria, Goulburn Valley Animal Liberation, in Shepparton. It says:

Dear Sir,

Re: Ashtons Circus, Animal Liberation - Victoria.

We confirm that we act for Ashtons Circus and have been handed a press release on the letterhead of "Animal Liberation" -

this magnificent body that Mr Lamont keeps talking about -

relating to our client dated 21st October 1988. The release cites four examples of alleged lack of care of animals owned by our client. None of the animals mentioned in those examples suffered any injury as a result of any deliberate or negligent act or omission of our client or its employees.

In particular the second example given relating to charges against persons in Bacchus Marsh relating to lions, the release implies that our client was somehow connected with the bad treatment of those animals. No charges were brought against our client or any servants or agents of our client in relation to those animals and representatives of our client appeared as witnesses for the prosecution in charges brought against persons who had the care of those animals.

The press release contains a number of defamatory allegations including:

'Ashtons Circus has an appalling record when it comes to animal care'.

'Animals are simply not safe in this circus'.

'The management of Ashtons Circus cannot be trusted to properly care for their animals'.

The solicitors continue:

We note that the allegations made by Animal Liberation - Victoria and Mr Clunies-Ross have not received wide publication and for that reason our client is not inclined to take proceedings in this instance in defamation. We believe that Animal Liberation - Victoria and Mr Clunies-Ross should consider themselves very fortunate that the good sense of the press has prevailed.

Our client reserves its rights to bring action over this or any future defamation.

Whilst our client recognises that Animal Liberation - Victoria and Mr Clunies-Ross are quite at liberty to make generalised statements concerning their beliefs over the welfare of animals if specific defamatory statements are made of our client which are untrue and damage its reputation our client will take action for redress through the courts.

So that puts paid to the comments made by Mr Lamont.

Mr Deputy Speaker, from time to time wildlife protectionists reveal themselves to be not only sentimental fools but sometimes dangerously anti-social. By attacking the honest labour of people, whose modest livelihoods are rooted in their profound knowledge of animal behaviour, protectionists corrupt the meaning and value of wildlife and exploit animals for their own media-enhanced reputations more thoroughly than trappers, hunters, game ranchers or wildlife researchers would ever dream of doing.

11 August 1992

MRS CARNELL (10.54): Speaking very briefly on Mr Westende's amendment, there is something that I think we have not really addressed in its entirety. I thought Ms Ellis brought up some very important points in this debate. The community has changed, and the community is changing. The comments about whales and our attitudes to the environment, to animals generally and to the way we relate to our environment are all very true. Circuses have also changed, and are changing. We really cannot look at circuses now as we did 20 years ago.

I think Mr Westende's amendment allows for that change to happen in an appropriate way. It gives circuses until the year 2000 to come to grips with the change that the community rightly is requiring of them, and that this Assembly should require of them. It is up to us, as responsible members of the legislature, to allow them to have that time to change. An immediate cut-off for animals that have been part of their lives for a long time is unacceptable. As Ms Ellis said, "Let us let that change happen, and happen in an appropriate way". Let us give a lead to that change, certainly; but let us not pre-empt it.

MR WESTENDE (10.56): Mr Deputy Speaker, first of all, I seek leave to table those letters that I mentioned earlier.

Leave granted.

MR WESTENDE: Thank you very much. Mr Deputy Speaker, Mr Lamont talked about the circus facade. Mr Lamont was talking about the owners of the circuses, and said that they were telling untruths. I think that was the word. I would suggest that the slander that Mr Lamont perpetrated earlier in the evening, if he was game enough to repeat it outside, would see the appropriate legal action. He has the protection of this house and no action can be taken by the circus owners. That, in itself, just shows the depths to - - -

Mr Berry: I raise a point of order. I think that to impute slander is to suggest an improper motive on the part of the member, and I would suggest that that ought to be withdrawn.

MR DEPUTY SPEAKER: Mr Westende, would you like to clarify the point?

MR WESTENDE: If it makes Mr Lamont and the other side happy, I withdraw the word "slander". However, I would like to include the word "untruths" about - - -

Mr Lamont: Mr Deputy Speaker, that also implies and imputes the same motive.

MR DEPUTY SPEAKER: I suggest to members that we have had a fairly detailed debate. Things have, I think, been kept on a quite reasonable keel and I would like to see this continue to the end of it. I think that Mr Westende has withdrawn the word and I would ask him to continue his comments.

MR WESTENDE: If it pleases the Chair, I would say that he has made some rather unfortunate allegations that may not stand up.

MR DEPUTY SPEAKER: Thank you.

MR WESTENDE: The question before the house now is whether this amendment, as proposed and circulated in my name, will be adopted, and I commend it to the house.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (10.59): Mr Deputy Speaker, in accordance with the generosity that the Chair has given to these debates, in Mr Kaine's wide-ranging discussion earlier he raised a couple of points. We have indicated across the chamber that we will, in the spirit of goodwill and consensus, accept a couple of amendments further down the track; but they do not reflect on this clause.

MR LAMONT (10.59): Mr Deputy Speaker, I seek leave to table a document which I referred to but did not have in my possession. It has been supplied by Mr Stevenson. I thank him for that. It is headed, "List of Incidents - the Facts". I understand that this is the document upon which the document I tabled was based. I believe that in the interests of fairness this document should also be tabled. I seek leave to do so.

Leave granted.

Question put:

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

The Assembly voted -

AYES, 8

Mrs Carnell
Mr Cornwell
Mr De Domenico
Mr Humphries
Mr Kaine
Mr Stevenson
Ms Szuty
Mr Westende

NOES, 9

Mr Berry
Mr Connolly
Ms Ellis
Ms Follett
Mrs Grassby
Mr Lamont
Ms McRae
Mr Moore
Mr Wood

Question so resolved in the negative.

11 August 1992

Question put:

That the amendment (**Mr Lamont's**), as amended, be agreed to.

The Assembly voted -

AYES, 9

Mr Berry
Mr Connolly
Ms Ellis
Ms Follett
Mrs Grassby
Mr Lamont
Ms McRae
Mr Moore
Mr Wood

NOES, 8

Mrs Carnell
Mr Cornwell
Mr De Domenico
Mr Humphries
Mr Kaine
Mr Stevenson
Ms Szuty
Mr Westende

Question so resolved in the affirmative.

Clause, as amended, agreed to.

Clause 5

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

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 11.05 pm

ANSWERS TO QUESTIONS

**MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 12**

Government Schools - Year 10 School Leavers

MR CORNWELL - asked the Minister for Education and Training on notice on 7 April 1992:

How many students by gender, apart from interstate transfers and moves to non-government schools, left the ACT Government school system after Year 10 in

- (a) 1989;
- (b) 1990 and
- (c) 1991.

MR WOOD: - the answer to Mr Cornwells question is:

The Department of Education and Training does not maintain data on the number of students leaving government schools at the end of Year 10. Different enrolment procedures for college entrance do not allow a correlation of figures for college entrance with that of completion of Year 10 at a high school. Simple comparison of figures of students commencing Year 11 to those awarded a Year 10 Certificate in the previous year are misleading as considerable numbers of students transfer from non-government schools or leave or arrive in the ACT over the Christmas vacation period.

The following table shows data on Years 10 and 11 for the periods 1989,1990 and 1991:

Year 10 Certificate Year 11 Enrolments
Awarded (February Census)

1989	2793	1990	3514
1990	2887	1991	3797
1991	2684	1992	3692

1495

11 August 1992

MINISTER FOR HOUSING AND COMMUNITY SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 89

Finniss Crescent Respite Care Facility

MS SZUTY - Asked the Minister for Housing and Community Services -

- (1) What guidelines and procedures are in place for respite care?
- (2) What input do parents have in the adoption of the guidelines and procedures other than through their Committee of Management representatives?
- (3) Are the grievance procedures in place for people in residential care?
- (4) How and when will parents be informed about grievance procedures available to them?
- (5) What arrangements are made for residents when they become ill?
- (6) Whose responsibility is it to attend to the needs of ill residents?
- (7) What back up arrangements are there for remaining residents on the occasions when other residents are away on camps and excursions?
- (8) Do all residents have separate bedrooms?
- (9) If residents do not have separate bedrooms and instead share bedrooms, how is this justified?
- (10) Is there any difference in rates of care for residents who share bedrooms as opposed to residents who have separate bedrooms?

1496

- (11) What rights do residents have to choose either male staff or female staff to attend to their personal needs?
- (12) Are there any instances in personal care for residents where it would be considered inappropriate for female residents to be attended to by male staff or for male staff to be attended by female staff?
- (13) How are the sensitivities of residents taken to account in matters of personal care by staff of different gender?
- (14) Are respite care facilities available at all times during the year?
- (15) What provisions are made for public holidays?
- (16) Has there been any occasion when respite care has been unavailable?
- (17) If so, what was the reason for this unavailability?

MR CONNOLLY - The answer to the Members question is as follows:

- (1) Finniss Crescent respite care facilities guidelines have recently been reviewed by the Finniss Crescent Committee of management and staff (April 1992). The guidelines have been distributed to parents of clients using the Finniss Crescent respite facility.
- (2) All guidelines and procedures pass through the Committee of Management which is made up of representatives from parents, staff and a member of the Disability Services Resource and Assessment Team. The parents have the opportunity, and are invited to provide input through the Committee of Management. The Chairperson of the Committee of Management has requested parents to raise issues concerning them through this forum. Parents can raise issues directly with management if they wish.
- (3) Grievance issues can be raised through the Committee of Management or taken up with house staff or management for resolution and/or referral to a more appropriate area.

1497

11 August 1992

- (4) A parents and staff working party is preparing a grievance policy and procedures for Finniss Crescent.
- (5) The process of caring for people who are staying at Finniss Crescent who take ill and require medical treatment is that parents are contacted and arrangements made for the person to receive medical treatment and/or arrangements for them to go home until they are well.
- (6) Staff have a duty to take reasonable care in relation to illness and injury. Staff will notify parents or carers of an illness, except in the event of an emergency situation, in which case medical assistance is first sought.
- (7) Arrangements are made to utilise the beds and staffing as far as possible when people are on camp. Normal staffing ratios apply to those people remaining at Finniss Crescent.
- (8) No. Due to the layout of the bedrooms no person can be guaranteed a single bedroom.
- (9) Due to the demand for respite care it is necessary to provide the maximum number of beds in relation to the building and the staffing of the facility. Bookings are as such that no opposite genders are mixed in bedrooms. High needs clients are placed in the single bedroom closest to the staff sleepover room, so that staff can readily respond to the clients needs.
- (10) No. All residents receive the same level of care regardless of bedroom status.
- (11) Staff work to a rotating roster and are employed to the position regardless of gender. If a resident asks or indicates they would prefer a particular member of staff to attend to their needs, their requests are respected.
- (12) The work of direct care staff of Finniss Crescent is similar to other professional staff of either gender working in other services (eg; hospitals, surgeries, nursing homes, hostels etc) caring for either male or female clients.

1498

- (13) The clients of Finness Crescent rights of privacy and dignity is respected.
- (14) Respite care is available all year, the lack of bookings over the Christmas period from 23 December to 27 December has resulted in this time being set aside for major cleaning and maintenance of the unit.
- (15) Full staffing is available.
- (16) Yes, see (14) and when there has been no vacancy available.

1499

11 August 1992

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 95

Government Schools - Planning

MR CORNWELL - asked the Minister for Education and Training on notice on 12 May 1992:

- (1) Is it a fact that primary schools catering for 700+ students are planned for the ACT.
- (2) If so, in what suburbs will these schools be built and how many students are each proposed to accommodate.
- (3) What is the rationale for building these larger primary schools and how much larger will be their catchment area than that of existing suburban primary schools.
- (4) Is it intended that new high schools and colleges be correspondingly larger and if so; how many students is it proposed each will accommodate.
- (5) What is the current optimum size of ACT (a) primary; (b) high school and (c) colleges.

MR WOOD - the answer to Mr Cornwells Question is:

- (1) Primary schools catering for a peak enrolment of up to 750 students are being planned for new urban areas in the ACT.
- (2) Gordon Primary School, which is currently being built, is planned to have a peak enrolment of 750 students. The primary school in Conder, where construction is expected to commence in 1993, is also planned to have a peak enrolment of 750 students. The long term enrolment level of both schools is expected to be approximately 330 students.
- (3) The emphasis of current school planning in the ACT is on more efficient provision of facilities and minimizing the impact of long term enrolment decline. This is essentially being pursued by firstly, enlarging school catchment areas, resulting in higher peak enrolment levels and secondly by the construction of schools which can later be converted to alternative uses, such as Bonython. Hence in the long term, when enrolments decline and with some changes to priority enrolment areas, schools will be of a larger size than currently is the case.

1500

The catchment area of new schools will be approximately 2000 standard dwellings whereas under previous planning arrangements the catchment area was approximately 1300 standard dwellings.

- (4) School planning provides for new high schools and colleges to have peak enrolments of approximately 1000 students. The schools are planned to accommodate approximately 800 students in permanent buildings and 200 students in transportable classrooms. Many existing high schools have had peak enrolments of over 1000 students.
- (5) The optimum size of schools is difficult to determine and depends upon the criteria used. Current school planning aims to ensure the efficient provision of facilities which are educationally and economically viable in the long term.

1501

11 August 1992

MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION

QUESTION 123

Drugs - Needle Exchange Program

Mrs Carnell - asked the Minister for Health:

1. How many disposable syringes are given away by the ACT Needle Exchange Program?
2. How does this compare with New South Wales on a population basis?
3. What is the return rate of disposable syringes given away?
4. How does this compare with New South Wales?
5. What action is the Minister taking to improve the rates of return?

Mr Berry - the answer to Ms Carnells question is:

1. 20,000 disposable syringes-are distributed per quarter (80,000 - 100,000 per annum).
2. New South Wales AIDS Department of Health is not prepared to release this information.
3. An average of 55% of syringes are returned. The actual figures for the 1991 December quarter were;

20,717 distributed

12,543 returned

4. The New South Wales target return is 60-% and exceeds this. Some sites have a 100\$ return rate whilst others have 0% returns.
5. The emphasis of the Needle Exchange Program is not on return, but rather safe disposal. There are good systems for dispos

1502

MINISTER FOR HEALTH

LEGISLATIVE ASSEMBLY QUESTION

QUESTION 124

Dental Services

Mrs Carnell - asked the Minister for Health:

1. Can the Minister inform the Assembly as to the length of the waiting list and waiting times for the Public Dental Service?
2. What is the average cost per patient both for school dentistry and adult dentistry with regard to this service?

Mr Berry - the answer to Mrs Carnells question is:

Patients are seen from the four major Health Centres. The length of the waiting lists for the four centres are as follows: Tuggeranong 470 patients; Civic 1631 patients; Belconnen 1211 patients and Phillip 1040 patients. The numbers on the waiting lists and waiting times for treatment, are dependent on the number of staff available to each clinic, and vary from 12 to 18 months. As patients do not notify ACT Health when they no longer require the Service, it is unlikely that the number reflects the actual need. A significant factor in the long waiting times for treatment has been the inability of the Service to attract and retain professional staff. Revised career and pay structures for dentists has resulted in improved staffing levels, reducing the time clients have to wait for treatment.

The average cost per client in the School Dental Service is \$38.97.

The average cost per client in the Adult Dental Service is \$73.18.

1503

11 August 1992

MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION

QUESTION 125

Home-Based Palliative Care Program

Mrs Carnell - asked the Minister for Health

1. Has continued funding been provided for the Home Based Palliative Care Program after Medicare Initiatives funding terminated in January this year? .
2. Has a new palliative care team been created since _
July last year; if so, is this team headed by a
.. senior specialist?

Mr Berry - the answers to Mrs Carnells questions are:

1. The Medicare Incentive Funding for the Home Based Palliative Care Program was completed in January 1992. The second part of the financial year is funded from ACT Health's budget.
2. There has been no change. since July of last year. A senior specialist has not been appointed.

1504

**ATTORNEY GENERAL
FOR THE AUSTRALIAN CAPITAL TERRITORY**

LEGISLATIVE ASSEMBLY QUESTION NO 130

**Attorney-Generals Department - Micro-economic Reforms
and Budget and Staffing Targets**

MR HUMPHRIES - Asked the Attorney General upon notice on 15 May 1992:

- (1) What microeconomic reforms are taking place in the Attorney Generals Department and what are the objectives of these reforms.
- (2) Is the Department meeting its budget targets for 1991-92.
- (3) What staffing targets have been set for areas administered by the Attorney General.
- (4) Are the staffing targets being met.

MR CONNOLLY - The answer to the members question is as follows:

Question 1

The micro-economic reforms taking place in the Department are consistent with the agenda for reform set at both the local and national levels, and are aimed at improving productivity while maintaining services which meet community objectives and promote the best possible use of available resources.

To a significant extent, the reform agenda will continue to focus on the basic structures for delivery of law and justice services. Structures inherited from the Commonwealth (under the staged transfer process that the Commonwealth chose to impose) have all too often reflected their place at the tail end of a broader Commonwealth responsibility, with scant recognition of the specific needs and priorities of the A.C.T. community. The court structures are a prime example of this.

As part of the process of reviewing these basic structures, legislation enacted since our return to Government last year has created the Discrimination Commissioner, the Community Advocate and the Guardianship and Management of Property Tribunal. For the future, I anticipate that there will be a particular focus on court structures and procedures, and on maximum integration and co-ordination of quasi-judicial tribunals and other review

1505

11 August 1992

processes. The Government has also, of course, made a major capital works commitment to improve court accommodation, which in turn will increase opportunities for administrative reform.

My Department is also pursuing a wide range of other activities with microeconomic reform objectives, including: deregulation of conveyancing in the A.C.T.;

streamlined arrangements for the inter-jurisdictional recognition of lawyers (the A.C.T. has also been taking a leading role in the national consideration of this issue);

active participation in the development of uniform defamation laws throughout the Eastern jurisdictions, and similarly in the development of a national uniform criminal code;

more effective consumer protection schemes, with comprehensive new fair trading legislation as a centre piece;

continuing emphasis on strategies for diverting disputes from the formal court process to less expensive mediation processes;

a comprehensive legislation review program which is analysing the existing body of A.C.T. laws by reference to basic principles such as avoiding unnecessary regulation, making laws understandable to the community, and removing unacceptable or out-dated language;

a continuing program for increasing community access to A.C.T. laws through, for example, education activities in schools and through much greater availability of up-to-date reprints of consolidated Acts;

a vigorous law reform agenda, currently including such major topics as victims of crime, domestic violence and landlord and tenant laws;

continued automation of titles and other document services through the Registrars Office, to facilitate commercial transactions and to provide more effective services to the public generally; development of legislative and other strategies concerning the price of petrol in the A.C.T.;

1506

3

continuing review of liquor licensing laws, to properly target aspects of community concern and to avoid any unnecessary or inappropriate regulation.

Rather than continue with further examples, I would invite Mr Humphries to study, when it becomes available, the Departments annual report for 1991/92, and the various documents on law and justice programs that will become available during the Budget process.

I should add that, as part of its ongoing services to Government, the Department is frequently closely involved in the micro-economic reform activities of other A.C.T. agencies, where those activities have legal or legislative implications, and assists with the A.C.T.s participation in the national reform agenda.

Question 2

Yes, with the exception of expenditure related to the payment of damages, settlements and legal costs. This item is non discretionary in nature.-

Question 3

No staffing targets have been set for areas administered by the Attorney General.

Question 4

As with other Agencies, the Attorney Generals Department is expected to manage staffing within a set salary budget. In 1991-92 it is anticipated that the Department will not exceed its salary target.

1507

11 August 1992

**MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION
QUESTION 134**

Woden Valley Hospital - Opening of Psychiatry Unit

Mr Humphries - asked the Minister for Health:

In relation to the Ministers statement on 7 April 1992 in the Assembly: "I did invite them to that (the opening of the Psychiatry Unit at Woden Valley Hospital) and they misbehaved"-

(1) To whom was the Minister referring when he said "they misbehaved".

(2) To what misbehaviour was the Minister referring.

Mr Berry - the answer to Mr Humphries- question is as follows:

On investigation of the Weekly Hansard it is apparent that my speech was the subject of a number of recorded interjections by members of the Liberal Party. The comments to which the member refers does not appear to be entirely relevant to those which are on the record and may have been in response to the comment which went unrecorded due to the large number of interjections from members.

Notwithstanding, I interpret it as a light hearted remark and no member should take offence.

1508

**MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO. 142**

Public Hospitals - Occupied-Bed-Day Statistics

Mrs Carnell - asked the Minister for Health:

- (1) How many occupied bed days (OBDs) were spent in single bed rooms.
- (2) What proportion is that of total OBDs in public hospitals.
- (3) How many of these occupied bed days were private patients staying in single bed rooms.
- (4) How many OBDs are attributable to private patients in total (ie in both single bedrooms and in wards).
- (5) How many OBDs are due to medicare patients staying in single bed rooms.

Mr Berry - the answer to Mrs Carnell's question is:

- (1) Occupancy is calculated on a whole ward basis and not room by room and hence this data is not available.

It is policy to provide single rooms to patients based on the severity of their illness and their nursing care requirements, not their health insurance status.

- (2) Refer to the answer given in (1).
- (3) Of this; private patients admitted between 1 February 1992 and 31 May 1992, 243 occupied days were for those patients electing and receiving a single room.
- (4) For the period 1 February 1992 to 31 May 1992, 14 907 occupied days were for private patients.
- (5) Refer to the answer in (1).

1509

11 August 1992

MINISTER FOR HEALTH

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 157

**Minister for Health -
Interstate Visits**

Mr Kaine - asked the Minister for Health:

In relation to your response to question on notice No. 59 that you made two interstate trips in the period 7 August 1991 to 31 March 1992.

- 1 How many public servants accompanied you on each of these trips, by name, position and function?
- 2 What was the cost of each accompanying officer?

Mr Berry - the answer to Mr Kaines question is:

1. Two public servants accompanied me to the Health and Social Welfare Ministers Conference on 5 - 6 September 1991.

Ms Gillian Biscoe
Secretary, Department of Health
Departmental adviser

Dr Vin McLoughlin
Executive Director
Health Services Development Branch
Departmental adviser

No public servants accompanied me to Westmead Hospital.

2. Cost for Ms Biscoe to attend the Health and Social Welfare Ministers Conference was \$546.00. This amount includes travel allowance, accommodation and airfares from the morning of the 5th September to the evening of the 6th September 1991.

Cost for Dr Vin McLoughlin to attend the Health and Social Welfare Ministers Conference was \$802.00. This amount includes travel allowance, accommodation and airfares from the evening of the 4th September to the evening of the 6th September 1991.

1510

**MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO. 177**

Nursing Home Waiting Lists

Mrs Carnell - asked the Minister for Health:

The Minister indicated in answer to question on notice No. 78 that 73 people assessed as being suitable for nursing home accommodation by the Geriatric Assessment Team (GAT) are still awaiting placement. Could the Minister indicate (a) the average length of time these people have been waiting; (b) the longest length of time that anyone assessed as suitable by GAT has been waiting, (c) how many people have been waiting longer than 4 months; (d) how many people have been waiting longer than 6 months; and (e) how many people have been waiting longer than 12 months.

Mr Berry - the answer to Mrs Carnells question is:

As of 26 June 1992 there were 20 people in the ACT who have been approved for placement in a nursing home and who would take up such a placement if one were offered.

In answer to the specific questions:

- (a) the average length of time these people have been waiting is 36.4 days;
- (b) the longest length of time that anyone assessed as suitable by the Geriatric

Assessment Team has been waiting and would accept a bed is 144 days;

- (c) one person has been waiting longer than four months;
- (d) no one. has been waiting more than six months; and
- (e) no one has been waiting more than twelve months.

1511

11 August 1992

Legislative Assembly Question No. 179

Gun Licences

Mr Humphries - asked the Attorney General

(1) Is the Attorney-General aware that people renewing gun licences are finding that it is taking five or more weeks for the police to process their applications.

(2) How many people renewing gun licences, and who applied for renewal while their existing licences were still current, are in breach of the new gun laws because of the excessive time it is taking to process applications.

(3) What is the longest period of time that an applicant has had to wait for (a) the issuing of a new gun licence and (b) the renewal of an existing licence under the new legislation:

(4) What action has the Attorney-General taken to inform people renewing gun licences that there are long delays and renewal applications should be lodged well in advance.

(5) Is any temporary licence being issued to gun owners who are being caught out by delays in processing licence applications.

What advice is being given to gun owners who are caught out by these delays.

Are such gun owners being advised to surrender their guns during the period between the expiry of existing licences and the issuing of new licences.

(8) What action does the Attorney-General intend to take to eliminate the problems associated with the time it takes to issue new licences.

Mr Connolly - the answer to the Members question is as follows:

(1) . . I am advised by the Chief Police Officer that the processing time for issuing or renewing licences has been reduced to approximately one week.

(2) As at 7 July 1992 there were no outstanding applications for licence renewal.

(3) (a) 6 weeks.

(b) 6 weeks.

The procedures are identical for issuing a new licence and renewing a licence.

(4) Renewal notices are being issued two months prior to the expiry date of a licence. Each renewal carries a notice that there are some delays in issuing renewals and applicants should apply for a renewal of their licence as soon as possible.

(5) The Weapons Act 1991 does not provide for the issue of a temporary licence.

(6) If gun owners have not received a renewal for their licence by its expiry date they are being advised that they should deliver their weapon/ s to a licensed dealer who will store it/them, at a cost, until a licence has been processed.

(7) Yes.

(8) There will always be some delay associated with issuing a new licence in view of the character and criminal record checks which must be carried out.

It should also be noted that the introduction of the Weapons Act on 3 October 1991 has placed an additional strain on the staff of the Weapons Registry as they endeavour to licence all gun owners in the ACT. It is considered that, once the transition phase is over, the initial problems of delays in processing licence applications are unlikely to recur.

1513

11 August 1992

MINISTER FOR HEALTH

LEGISLATIVE ASSEMBLY QUESTION

QUESTION 180

Scoliosis Screening

Mrs Carnell - asked the Minister for Health:

What is the present status of scoliosis screening?

Have the services for scoliosis screening recently been discontinued; if not, what is the level, type and cost of the service currently provided?

Mr Berry - The answer to Mrs Carnells question is:

1. Routine scoliosis screening by Community Nurses ceased in 1991. Scoliosis screening is recognised as having low priority status at a national level. National recommendations on screening procedures (including scoliosis) are awaiting a NHMRC report, due in November 1992
2. Information on scoliosis and advice for seeking assessment for a potential problem is included in the School Screening Program form sent annually to all year seven High School students.

Planning is underway for a more descriptive brochure to assist parents and teachers in checking for scoliosis. Information will include where assessment and advice can be secured, and the range of corrective treatment that can be envisaged. This will be distributed through schools.

Individual referrals from teachers or parents for a child to be screened for scoliosis can be made to Community Nurses at Regional Health Centres and schools. An average screen takes nine minutes at an approximate cost of \$3 00 -\$4 00 per child.

1514

**CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION**

Question No 183

Tourism Commission

MR DE DOMENICO - Asked the Chief Minister upon notice on 16 June 1992:

- (1) What savings were achieved in moving the Tourism Commission from the Jolimont Centre to the CBS Towers building.
- (2) What was the rent at the Jolimont Centre
- (3) What is the rent at CBS Towers
- (4) What was the cost of the move
- (5) What is the number of consultants working for the Tourism Commission
- (6) What has each consultant been contracted to do
- (7) How long is each contract
- (8) How much is each contract worth
- (9) How many and which contracts have been renewed
- (10) What review process is in place for those consultants
- (11) What was the unit price for the Canberra map
- (12) Why was a decision made to have the Tourism Bureau print the Canberra map rather than the NRMA
- (13) Where and how is the present Canberra map distributed

MS FOLLETT - The answer to the members question is as follows:

- (1) The move achieved estimated savings on rental costs for 1991/92 of \$399,895.

The estimated full year savings for 1992/93 is \$485,060 (based on the existing rent cost of \$58,190 per month at Jolimont). In fact, the rent was due for review in early 1992, and a significant increase was required by the building owners. Such increase has not been taken into account in calculating the above savings.

- (2) 1991/92 Rent cost was \$290,950 (ie 5 months @ \$58,190 per month.)
- (3)- 1991/92 - Nil rent costs to the Commission.
- 1992/93 Rent costs are estimated at \$200,472 (ie \$16,706 per month.)

11 August 1992

(4) The cost of the move was \$5,508

(5, 6; 7, 8, 9)

The only consultant working for the Commission is Deloitte Ross Tohmatsu - review and acquisition of computer system \$43,894 paid during 1991/92 (on-going).

(10) Regular review by the Commissions Chief Executive Officer and Operations

Manager..

(11) Not known, the Canberra map was published by Vickers Caley Publications.. The Commission purchased advertising space, and met the cost of providing Tourist Drive information in the publication (total \$8430). The publishers made available 250,000 copies of the map to the Commission, free of charge.

(12) Because it resulted in a saving to the Commission of over \$40,000.

(13) The map is being distributed throughout Australia through the Commissions distribution network, and internationally through the Australian Tourist Commission and NSW Tourist Commission.

1516

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION 185

Special Education - Pilot Integration Program

MS SZUTY - asked the Minister for Education and Training on notice on 16 June 1992:

- (1) How many integration places for children with disabilities are currently being trialed in the ACT.
- (2) What level of participation in the integration of children with disabilities do parents have.
- (3) How many expressions of interest from parents have been received for additional places.
- (4) How does the Department of Education assess children-with disabilities for integration into mainstream classes.
- (5) What particular disabilities or degree of disability would preclude a child from being accepted for integration into mainstream classes.
- (6) Will all or most government schools eventually participate in the integration program by accepting children with disabilities.
- (7) Are parents able to request integration for their child/children despite a negative assessment from the Department of Education.
- (8) Do appeal processes or procedures exist for parents to pursue if they are unhappy with assessments.
- (9) What is the Departments policy on actively assessing and .reviewing student abilities as the integration program progresses.
- (10) What level of resourcing in staffing points, support staffing and general resourcing is provided to schools for the integration of children with disabilities into mainstream classes.
- (11) How will the success of the trial of the integration of children with disabilities into mainstream classes be assessed.
- (12) If the integration program is extended in the future will parents and students be given choices between integration and education in a special school setting.

1517

11 August 1992

MR WOOD - the answer to Ms Szutys question is:

- (1) There are currently seven primary school aged students with special needs being integrated in mainstream classes in the Pilot Integration Program.
- (2) Parents were invited to consider whether they would like their child to participate in the Pilot Integration Program. Parents have been meeting on a regular basis with Principals, teachers and officers of the Department to monitor the implementation of the program. In the near future parents will be participating in a schoolbased conference known as an In-school Review for their child to review identified objectives for the students educational program; evaluate the progress of the student to determine program outcomes; and to formulate recommendations for future educational programming and placement.
- (3) There was one verbal request from a parent for an additional place in the Pilot Integration Program:
- (4) The Pilot Integration Program involves students with special needs of primary school age who were selected in the main, from Malkara and Cranleigh Special Schools but also from other settings on the basis of.:
 - student profiles; and
 - discussion with staff at the students school.
- (5) Primary aged students with special needs who were mobile and without severe behaviour difficulties were chosen for the Pilot Integration Program to enhance the possibility of this program being successful.
- (6) Currently the seven students involved in the Pilot Integration Program are integrated into six mainstream primary schools. The Pilot Integration Program was initiated to examine the feasibility of integrating students with special needs into mainstream classes. The program was limited for two reasons: there was a need to adequately prepare mainstream teachers to teach students with special needs prior to placement and the high cost of, providing additional staffing resources to support students in this study. Any extension of the program will depend on the availability of additional funding.
- (7) Parents are always able to request integration for their child. My Department will foster the integration of students with special needs into mainstream schools when this is in the best educational interests of the student and other students in the school and within the Departments overall resource capacity. At the same time my Department recognises the essential nature of special programs or settings for students who are assessed as being in need of such a placement. The best interest of the student and other students in the school will be

1518

assessed and recommended upon by officers of my Department in close consultation with parents.

- (8) A parent is able to call an in-school Review at anytime. Where review members are not in agreement with a recommendation from an In-school Review a formal System Review will be constituted. Following this review process, where parents are dissatisfied with a recommendation, they have a right of appeal to the Director School Services Section, in the first instance and, if necessary to the Executive Director Public Education Services.
- (9) All students receiving special education services including the seven students involved in the Pilot Integration Program must have an annual formal review which constitutes an In-school Review. The purpose of the In-school Review has been outlined in an earlier answer.
- (10) The seven students involved in the Pilot Integration Program have been placed in mainstream classes with support for each student in the form of 0.1 of an integration Teacher, up to 0.5 of a Special Teacher Assistant and additional teaching resources to the school to reduce the students mainstream class size. Further, all staff involved in the program have been provided with additional professional development activities.
- (11) A monitoring/data collection process has been established to provide data for any future formal evaluation and to provide base information for decisions regarding the program in 1993.
- (12) If funds are available and the Pilot Integration Program is extended in the future, the parents of students selected for the program will be invited to consider whether they would like their child to participate in the program in a mainstream class or be placed in a support program or special setting.

1519

11 August 1992

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 186

Garran Primary--School - Playground Upgrading

MR CORNWELL - asked the Minister for Education and Training on .
notice on 24 June .1992 : -

In relation to upgrading the play area adjacent to Garran. Primary-School:, y

- (1) Who gave permission for heavy trucks to drive across the playing fields near Wright Place and why was such permission given.
- (2) Who is responsible for repairing the-damaged grass.
- (3) When will these repairs be carried. out. ,, -

MR WOOD.- the. answer to Mr Cornwells question is:

- (1) This Department awarded the contract .to install
playground equipment. at Garran Primary School and
gave permission to the contractor. to drive across
areas required for the installation of the .
equipment. -. .
- (2) Under the terms of the contract, .the contractor is: to make good-any damage caused during the
execution of the contract. ,
- (3) The contractor has not. yet handed over the .. playground area to the Department. The damaged
area is still surrounded by barricades and repairs, will shortly be completed. by .the contractor:

1520

**MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION 191**

Board of Senior Secondary Studies

MR CORNWELL - asked the Minister for Education and Training/on notice on 16 June 1992: In relation to the ACT Board of Secondary Studies:

- (1) To whom does it directly report.
- (2) What is the membership by name and who are they representing.
- (3) What is the Boards terms of reference.

Mr WOOD - the answers to Mr Cornwells questions are:

- (1) The Chair of the ACT Board of Senior Secondary Studies reports to the Minister for Education and Training
- (2) The members of the Board are experts in the fields of either curriculum development and evaluation or assessment and certification.

Membership is as follows:

Mr Selwyn Cornish Chair (ANU)
Mr Max Sawatzki ACT Department of Education
and Training
(Alternate Mrs Anne Murray)
Ms Margaret Travers Australian National
University
(Alternate Dr Robert Miller)
Mr Ivor Vivian University of Canberra
(Alternate Dr Dianne Kendall)
Ms Martha Kinsman ACT Institute of TAFE
(Alternate Mr Derek Arkle)
Mr Graham Evans Vocational Training
Authority
(Alternate Mr Rod Pickette)
Ms Val Macaulay Australian Teachers Union
(ACT Branch)
(Alternate Mr Ian Knight)
Mr Richard Warry Interstate Expert
(Queensland Department of
Education)
1521

11 August 1992

Mr Jeff Mason Secondary College
Principals Association

(Alternate Dr Bill Donovan)

Ms Margo Leering Non Government Schools
(Alternate Mr Richard Broughton)

(3) The Boards terms of reference are:

To ensure that the following services are made available by the Board to government, non-government and recognised educational institutions that have a prime aim of teaching:

accreditation and registration of courses of study for students in Years 11 or 12 or at an equivalent level;

assessment and certification of the attainments of students who have undertaken Year 11 or 12 equivalent courses.

1522

**MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION**

Question No 196

TAFE Colleges - Enrolment Statistics

MR CORNWELL- To ask the Minister of Education

1) How many (a) full-time and (b) part-time students were enrolled in ACT TAFE courses in (i)1990, (ii) 1991 and (iii) 1992.

2) How many in each category in each year were mature age students upgrading qualifications.

MR WOOD: The answer to the members question is as follows:

(1) The numbers of full-time and part-time students in ACT TAFE, courses are as follows:

(i) 1990: a) full-time - 2,534 b) part-time - 15,043

(ii)1991: a) full-time - 3,237 b) part-time - 13,425

(iii) 1992 figures will not be available until late August 1992, however, preliminary indicators show a continuation of the trend for an increase in the number of full-time students.

It should be noted that many students enrol in more than one course (probably about 7-8%), hence the total course enrolment numbers always exceed student numbers.

(2) All ACT TAFE students are upgrading their educational and vocational skills but statistics of students who are "upgrading qualifications" are not gathered.

If mature-age students are defined as students aged 25 years and over, the numbers of mature age students at the Institute are as follows:

(i) 1990: a) full-time - 818 b) part-time - 8211

(ii) 1991: a) full-time -1,102 b) part-time - 6914

(iii) 1992 figures are not available.

1523

11 August 1992

MINISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION.

QUESTION NO 197

Urban Services Contracts

Mr Cornwell - asked the Minister for Urban Services:.

For what purpose were the following contracts arranged (Gazette No 19 of 13 May 1992)

- (1) 701616-0 Over Print of Forms \$5 533.00
- (2) 701671-8 Nominal Defendants \$6 31.0:09
- (3) 701922-2 Consultancy \$30 000.00
- (4) 702046-9 . Thermal Clothing \$5 300.80

Mr Connolly - the answer to the Members question is as follows:

- (1) Overprinting of Form TS2/51, Registration Certificate with Label, was required following the increase in Registration Tax effective from 1 October 1.991.
- (2) The amount of \$6310.09 paid to the Nominal Defendant represents liabilities.. of \$5171.87 for Commonwealth vehicles in the ACT and \$1138.22 for the ACT Government vehicles, .. apportioned by the Registrar of-Motor Vehicles for accident claims totalling \$129211.61 against the Nominal Defendant, in accordance with section 86(2) of the Motor Traffic Act 1936. The Commonwealth portion is recovered from that Government.
- (3) The purpose. of the consultancy with Hewlett-Packard Australia Limited was to recommend a strategy for improving the overall long-term performance of the Transport Regulation computer systems.
- (4) Thermal underwear to this value has been purchased from Damart Thermolactyl for winter use by Parking inspectors.

1524

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION 199

School Management Accounts - Receipts and Disbursements

MR CORNWELL - asked the Minister for Education and Training on notice on 16 June 1992:

What were the School Management Accounts, Receipts and Disbursements by Purposes for each government school for (a) 1989-90 and (b) 1990-91.

MR WOOD - the answer to Mr Cornwells question is:

The information Mr Cornwell requested on school management accounts, receipts and disbursements by purpose is not available in a form suitable for easy reproduction. The information appears on 4 broadsheet computer pages trimmed and joined across (1.2 metres in width) x 20 computer pages in length (5.6 metres) for each year. This conjunction of computer sheets is necessary to tally receipts and payments for a particular school for the period required. A time consuming manual compilation of data and extensive use of resources would be required to extract the details for each ACT government school and 196 pages would be needed to display the information. A copy of the consolidated school accounts as presented in the Departmental Annual Reports for 1989/90 and 1990/91 is attached.

1525

SUPPORTING STATEMENT (

ACT SCHOOLS AUTHORITY

STATEMENT OF SCHOOL MANAGEMENT ACCOUNTS
FOR THE PERIOD ENDING 30 JUNE 1990

By virtue of section 29(3) of the Schools Authority Act 1976, (as amended) all moneys received by ACT government schools from all sources are deemed moneys of the Authority.

Accordingly, this statement reports on the receipt and disbursement of moneys which are administered at the local school level.

Cash holdings together with the receipt and disbursement of moneys of various Parents and Citizens' Associations of schools and Preschool Parent Associations have not been included in this statement as they are not deemed moneys of the Authority.

A. RECEIPT AND DISBURSEMENT BY PURPOSES

	Receipts	Payments
	-----	-----
	\$	\$
Balance 11 May 1989	3,671,282	
Recurrent Grant	5,016,640	
Administration		2,059,509
ACTSA Extraordinary	1,777,326	
Educational Programs		7,195,719
Fund Raising	63,678	47,682
Voluntary Contrib'/Donations	2,651,491	
General Overhead Expenses		530,940
Minor Maintenance	1,202,450	1,341,407
Capital Grant		19,757
Authority Collections	60,962	62,507
Computer Education		1,195
Disadvantaged Schools	45,566	37,704
ESL New Arrivals	113,295	84,409
ESL General Support	101,785	76,403
Participation/Equity	(11)	3,182
Multicultural		280
Special Education	613	
Severely Handicapped	9,877	8,704
Integration	8,790	8,115
ACTSA Curriculum Development		
Project	146,266	75,749
Transitory	4,665,422	4,400,080
Miscellaneous	1,281,055	218,403
Balance 30 June 1990		4,644,743
	-----	-----
	20,816,486	20,816,486
	-----	-----

SUPPORTING STATEMENT (i)

ACT SCHOOLS AUTHORITY

STATEMENT OF SCHOOL MANAGEMENT ACCOUNTS
FOR THE YEAR ENDING 30 JUNE 1991

By virtue of section 29(3) of the Schools Authority Act 1976 (as amended), all moneys received by ACT government schools from all sources are deemed moneys of the Authority.

Accordingly, this statement reports on the receipt and disbursement of moneys which are administered at the local school level.

Cash holdings together with the receipt and disbursement of moneys of various Parents and Citizens' Associations of schools and Preschool Parent Associations have not been included in this statement as they are not deemed moneys of the Authority.

A. RECEIPT AND DISBURSEMENT BY PURPOSES

	Unaudited Receipts	Unaudited Payments
	\$	\$
Balance 1 July 1990	4,644,743	
Recurrent Grant	4,354,031	
Administration		1,901,075
ACTSA Extraordinary Educational Programs	1,566,457	6,669,274
Fund Raising	45,060	30,554
Voluntary Contrib'/Donations	2,620,619	
General Overhead Expenses		469,571
Minor Maintenance	1,190,836	1,123,793
Capital Grant	75,257	95,421
Authority Collections	108,577	107,701
Computer Education		4,390
Care Education	2,940	2,365
Projects of National Significance	1,305	2,349
Disadvantaged Schools	50,442	60,306
ESL New Arrivals	14,599	45,146
ESL General Support	10,000	24,091
Participation/Equity		1,266
Multicultural		3,248
Special Education	15,298	3,014
Severely Handicapped	8,361	6,792
Integration	22,640	11,857
ACTSA Curriculum Development Projects	99,798	58,061
Transitory	4,478,562	4,269,492
Miscellaneous	992,117	132,754
Balance 30 June 1991	<u>20,301,643</u>	<u>5,279,122</u>
	<u>20,301,643</u>	<u>20,301,643</u>

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION 200

Non-Government School Funding

MR CORNWELL - asked the Minister for Education and Training on notice on 16 June 1992:

(1) What ACT Government recurrent funding is provided and for what years for the following non-government schools (a) Canberra Montessori; (b) Trinity Christian and (c) Covenant College.

MR WOOD-- the answer to Mr Cornwells question is:

- (1) ACT recurrent funding is paid as-Per Capita Grants which are tied to the Commonwealth Recurrent Grants and paid at 50 per cent of the Commonwealth rate.
- (a) Canberra Montessori School is a registered school providing education for Kindergarten under the Education Act 1937 but does not meet the criteria required to receive Commonwealth funding and therefore is ineligible for Territorial funding.
- (b) Trinity Christian School receives ACT recurrent funding at the rate of \$591.50 per student for the 1991-92 financial year. Minor ACT grants were paid to Trinity in the form of a Library Grant of \$1,969.00, an Excursion Bus Hire Grant of \$1,635.98 and Secondary Textbook Grant of \$1,928.00. The ACT Interest Subsidy Scheme has provided \$181,216.06 towards building projects for Trinity Christian. . The total amount for 1991-92 financial year was \$595,396.79.
- (c) Covenant College although a registered school under the Act was not in receipt of recurrent funding prior to the start of the 1992 school year as the enrolment number had not reached the Commonwealths requirement of 50 students. Covenant College commenced the 1992 school year with 53 students and has received \$13,130.75 Per Capita Grant for this financial year. In addition Covenant College received two minor recurrent grants \$3,530 Library Grant and \$80.72 Excursion Bus Hire Grant. The total amount for the 1991-92 financial year was \$16,741.47.

**MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION**

Question No. 201

TAFE Colleges - Students Repeating Year 12

MR CORNWELL: To ask the Minister for Education

(1) How many (a) Government and (b) non-Government Students were admitted in 1992 to ACT TAFE Colleges as repeating year 12 students?

(2) What was the cost to the ACT Government for students from each sector in (1)?

MR WOOD The answer to the members question is as follows:

(1) The ACT Institute of TAFE does not identify in its enrolment information whether students gained their secondary education in a Government or non-Government. school.

The Institute has surveyed those students undertaking the ACT Year 12 program in ACT TAFE in 1992, to ascertain their prior experience in secondary studies. Some 152 students of a total of 229 students responded to the survey, with the following key results:

20% (31) had previously undertaken ACT Year 12. Of these over half (16) had undertaken such studies in 1991.

9% (14) had previously undertaken the NSW NBC.

71% (107) had not previously undertaken these courses.

TAFEs experience is that the presence of a majority of mature age students in this program positively influences the performance of those who could be classified as repeating students.

(2) It would be expected that the cost would be independent of where the previous

attempt at Year 12 was undertaken. As a guide to cost, the average cost per capita of the TAFE alternative program for students who returned to Year 13 but who subsequently transferred to TAFE is \$5700. The cost of a place in the TAFE Year 12 program would be less than this, since this program has a restricted range of lower cost options for study.

1529

11 August 1992

MINISTER FOR THE ARTS

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 205

Cultural Council Subcommittees

Mr Cornwell asked the Minister for the Arts in relation to the ACT Cultural Council sub-committees -

- (1) Does each sub-committee have time secretary, or executive officer?
- (2) Where are these sub-committees located?
- (3) What is the cost of servicing these sub-committees?

Mr Wood - the answer to the members questions are as-follows:

- (1) The sub-committees of the ACT Cultural Council have no dedicated staff resources whatsoever. The workload of providing secretariat and policy support for both the Council and-its sub-committees is being absorbed within the existing resources of the Arts and Special Events , Section against competing priorities. Because of the. significance of the activities of the Cultural Council and its sub-committees, I am currently reviewing this arrangement. .
- (2) No accommodation. has been provided for the Council or its. sub-committees. Meetings are held in the offices of the Arts and Special Events Section.
- (3) The costs of servicing the sub-committees and indeed the. Council are being absorbed within the existing budget .of the Arts and Special Events Section at the expense of other activities.. However it should be emphasised that the greatest subsidy for the Council and its sub-committees is the many.hours of unpaid time contributed by the members themselves. I am considering the impact of the increased workload and the.availability of resources to alleviate it.

1530

**MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO. 209**

Housing Consultations - Venues

MR CORNWELL - asked the Minister for Housing and Community Services -

- (1) Why were the 1992-93 Housing Assistance Plan consultations of 4 May and the Home Purchase Information Night of 6 May for Belconnen both held at the Labor Club.
- (2) What was the cost of each function, including venue hire.
- (3) Why was the Belconnen Community Centre or some other venue not used.

MR CONNOLLY - the answer to the Members question is as follows:

- (1) The Housing Assistance Plan consultations were held at the Labor Club because it provided a centrally located venue for Belconnen residents at a relatively inexpensive rate.

The Canberra Entertainment Centre provided the necessary facilities to stage the Home Purchase Information Night with a large auditorium to seat over 300 people as well as sufficient space for displays by 41 participating organisations.

- (2) \$170 for the Housing Assistance Plan consultation on 4 May including \$50 venue hire for the Conference Room.

\$12 489 for the Home Purchase Information Night on 6 May including \$100 venue hire for the Canberra Entertainment Centre. The industry sector contributed \$1 000 towards this cost.

- (3) The rooms available in the Belconnen Community Centre on 4 May were not suitable and cost more to hire, than those hired in the Labor Club.

The Belconnen Community Centre Theatre was not suitable as the seating capacity is only 200, and was not available on 6 May.

1531

11 August 1992

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION TAKEN ON NOTICE 18 JUNE 1992

**Education Budget -
Reduction in Staff**

MR KAINÉ - asked the Minister for Education and Training:

I understand that the Minister would be reluctant to speculate on next years actions but the Chief Minister had a target in this current fiscal year of reducing the

.numbers in the Public Service by 250 people by redundancy. How many of those have, in fact, come.out of the Education Department in this current year?

MR WOOD - the answer to Mr Kaines question is:

In the fiscal year 1991-92, a reduction of 37 members of the ACT Government Service was effected from the Department of Education and Training.

1532