



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

21 October 1992

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

PAYROLL TAX (AMENDMENT) BILL 1992

MR DE DOMENICO (10.31): Madam Speaker, I present the Payroll Tax (Amendment) Bill 1992.

Title read by Clerk.

MR DE DOMENICO: I move:

That this Bill be agreed to in principle.

Madam Speaker, payroll tax on service contracts was introduced in the Australian Capital Territory on 1 November 1989. There is no payroll tax on service contracts in Queensland, Western Australia or the Northern Territory. Payroll tax on service contracts does exist in Victoria, New South Wales and Tasmania. South Australia also introduced it, after an extensive review of legislation in the other States, on 1 April 1992.

Madam Speaker, much has been said about the importance of the housing sector to the ACT economy. Discussions with both the Master Builders Association and the Housing Industry Association show a united front in their request for the sort of change proposed in this Bill. I believe that the Chief Minister herself has hinted that the Government would not be against some changes to the Payroll Tax Act. Another reason for this Bill is that prior to the election in February the Liberal Party gave a commitment that it would amend the Payroll Tax Act. What we are doing here this morning is honouring that commitment. Obviously, there are other reasons why there is a need for change. The rules for payment of payroll tax with respect to partnerships in the ACT, in the opinion of the Liberal Party and the Opposition, must conform to the rules that apply in New South Wales. The exemptions contained in revenue rulings should form part of the legislation.

We need to look at the application of payroll tax to partnerships in the ACT. Payments made to a contractor, we believe, should be treated the same, irrespective of whether the contractor operates through a company or is a partnership or is a sole trader. Assuming that a contractor, for example, does not fall within any other exemption, it is useful to look at a practical example as it applies to the building industry. We all know how important the building industry is to the ACT.

Let us take the situation where two bricklayers and one labourer provide bricklaying services to a builder. All of them work on the one site. If they operate through a company, then the builder does not pay payroll tax - and that is included in revenue circular 6 - as the persons performing the work will be employed by the company. If one of the bricklayers employs the other two -

that is, he is a sole trader - then the builder does not pay payroll tax. If the two bricklayers, as a partnership, employ the labourer, then the builder does not pay payroll tax. If the three work as a partnership, known as a "buddy gang" in the building industry, then the builder does pay payroll tax. This is unjustifiable and unfair. If they were to change their way of operation, then the commissioner would undoubtedly say that the change was for the purpose of avoiding payroll tax and would challenge the change on the basis that it was a contrived arrangement to avoid payroll tax. Clearly, this anomaly must be rectified to ensure that the liability to pay payroll tax is the same, irrespective of operating structure.

Madam Speaker, it is interesting to compare the position with respect to partnerships in the ACT with that in other States that have payroll tax on service contracts. Victoria, for example, is in the same position as the ACT, although I believe that the new government there is going to be rectifying that very shortly. It is the only other Australian jurisdiction which has not allowed an exemption for buddy gangs. In New South Wales buddy gangs are excluded from the operation of the Act, and that is revenue circular PT11. In Tasmania and South Australia, if work is performed on site by two or more partners, then the commissioner accepts that the legislation does not apply. Madam Speaker, there is no justification for the position in the ACT to be any different to that in New South Wales. Many builders, as you are well aware, operate in both the ACT and New South Wales.

The question could be asked: Should it be legislation or revenue rulings? The ACT is the only Australian jurisdiction to rely upon rulings instead of legislation for the main exemptions from payroll tax on service contracts. This results in considerable uncertainty and allows the commissioner to have wide discretionary powers in complex areas that are best left to the legislature. Madam Speaker, for that reason I commend this Bill to the house.

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

HUMAN RIGHTS IN UGANDA

MR HUMPHRIES (10.36): I move:

That this Assembly, noting -

- (1) that the Ugandan Government has committed itself to and has implemented improvements in human rights education in the face of a legacy of problems as Uganda recovers from more than 20 years of massive human rights violations, division and conflict;
- (2) that armed opposition groups have committed human right violations in Uganda;

and noting -

- (3) that, despite the promises to respect human rights, violations have continued under the present Ugandan Government including dozens of massacres of civilians;

and further noting -

- (4) that the ACT Legislative Assembly Branch of Amnesty International has requested the Assembly to express concern on behalf of the citizens of the ACT regarding the present state of human rights abuses in Uganda.

Resolves to convey to the Ugandan Government its concerns about on-going human rights violations and in particular -

- (1) urges the Ugandan Government to ensure that the army respects the rule of law;
- (2) expresses concern about the use of serious charges as a pretext for detaining suspected opponents or critics, and the widespread use of detention without charge or trial and about summary and unfair trials of soldiers under military law, especially those which lead to executions;
- (3) urges the Ugandan Government to fully implement the international human rights treaties which it has acceded to, and to submit its periodic reports on the implementation of these treaties (the Convention Against Torture and the African Charter on Human and People's Rights); and
- (4) urges the Ugandan Government to ratify the International Covenant on Civil and Political Rights.

Madam Speaker, I move this motion, in essence, on behalf of my fellow co-conveners of the ACT Legislative Assembly branch of Amnesty International - namely, Mr Connolly and Ms Szuty - and on behalf of all the members of the Assembly branch of Amnesty International. Members will be aware that this branch has existed now for some time. Amnesty International has arms in a similar form in most or all Australian parliaments.

Those branches are very important in working towards the promotion of human rights around the world, and I believe that the ACT Assembly branch has no less a role to play in that respect than do the others. Our branch is a branch which typically includes not just members of the Assembly but also staff members and other workers within the Assembly precincts. It is my hope and the hope of the Assembly's branch of Amnesty that the motion which appears on the notice paper today will articulate the concerns, both of members of this Assembly and of Canberrans more generally, about the position of human rights in Uganda.

Today, Madam Speaker, is African Human Rights Day. It is unusual to discuss international matters in the Assembly outside the adjournment debate. But I think there is good reason today to be embarking on this discussion. First of all, it is African Human Rights Day; but it is, more importantly, a day on which we can take advantage of the broader campaign being conducted by Amnesty International to promote a focus on Uganda and on the position of human rights in that country. It is intended to do something very practical about a serious human rights problem in that place.

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Every State parliament, together with the ACT Legislative Assembly, is being asked to pass a motion in a similar form to the one which appears on the notice paper today. I am not sure about this, but the ACT may be the first parliament to in fact do this. I understand that the New South Wales Parliament will be considering a motion very soon, but I think that the ACT is the very first parliament to do so. This motion will also mesh with activities of non-parliamentary members of Amnesty International, and it is designed to demonstrate the wide concern across Australia about the position of human rights in Uganda and hopefully to persuade the authorities of Uganda that abuses are indeed very much in the international consciousness, in the international spotlight, and should not be allowed to continue.

What is the general position in Uganda at the present time? Uganda, of course, is a small landlocked country in east Africa. It was formerly a British colony and, since 1962, has been a member of the Commonwealth of Nations. It was once a very rich country, a veritable breadbasket of Africa. It was stable and it had a great deal of promise. It had a very high level of missionary activity in earlier decades, and as a result some 60 per cent of Ugandans are Christian. It also contained some of Africa's very best universities. The situation today, unfortunately, is less happy.

Since Uganda's independence in 1962 it has experienced a succession of repressive governments. The most notorious perhaps is the Government of General Idi Amin from 1971 to 1979 but unfortunately, in many respects, that has not been the worst government that Uganda has experienced. Indeed, until recently, in terms of human rights abuses, each government appeared to be worse than its predecessor. In 1986 Yoweri Museveni came to power, and he heads a government called the National Resistance Movement Government. Ostensibly, this Government has managed to improve the situation in Uganda with respect to human rights. It consists, at least ostensibly, of members of all four main political parties in that country. The Government has articulated on several occasions its commitment towards the maintenance and promotion of human rights in that country.

Madam Speaker, Uganda is very anxious to improve its position in the perception of the rest of the world in order to at least improve its position with respect to the granting of aid, but I regret to say that a disturbing pattern of human rights abuses in that country remains. If we examine the situation, we see a position which is not at all encouraging. In many places in Uganda at the present time fighting occurs between government and insurgency forces. There is a consistent pattern of extrajudicial executions by troops of the National Resistance Army of armed civilians and prisoners who have been involved in counterinsurgency operations over the past six years. There has been, and continues to be, unlawful detention of civilians without charge or trial. There have been persistent reports of torture and ill-treatment of prisoners in military custody. Torture, unfortunately, is apparently a very widespread and commonly used device by security forces in that country. Some victims are reported to have been tortured to the point of death. There is a widespread use within the judicial system of the charge of treason against prisoners of the Government. That charge appears to be in common use, particularly where it is not apparent that any other more specific charge is available against members of the community. The death penalty is also widely used in Uganda.

The sorts of things perpetrated against civilians in Uganda, however, are not the only problem. There is also a very harsh policy in force against soldiers of the Ugandan Army. There are many documented cases of detention of soldiers without charge or trial. Torture, apparently, is also not unexceptional, even in the case of soldiers. There have been unfair trials of prisoners accused of desertion. Soldiers are governed by a military legal regulation system which prescribes the death penalty for over 20 different offences. When those offences are proved, or apparently proved, and that penalty is imposed, there is virtually no proper right of appeal for soldiers in those circumstances. At least 40 soldiers have been convicted of offences while off duty and have been publicly executed following summary trials.

Members will be aware that Amnesty International has retained a consistent approach of rejecting the use of the death penalty in any way. The number of countries which use the death penalty is, fortunately, on the decline but is, unfortunately, still in use in a number of places, and Uganda is one very clear case of it being used very much to excess. The death penalty is mandatory for murder, rape and treason in Uganda and is applied in a number of other cases as well. Australia ceased to use the death penalty at least 25 years ago, and I believe that it is only fair that other countries should come to realise that the death penalty is an inappropriate method of reducing the incidence of crime or of treating people who have been convicted of crimes. I believe that we should indicate very clearly that we would like to contribute to the process of other countries abandoning that device for dealing with problems.

Amnesty International's campaign is two-pronged. It is designed, first of all, to congratulate the Ugandan Government on the improvements which it has effected in the human rights situation. The situation before the present Government came to power was even worse than it is now. Therefore, I think the Government deserves some commendation for having managed to wind back the abuses. It also deserves congratulations on its rhetoric. But it is also important, under the second prong, for us to be encouraging the taking of strong action by the Ugandan Government to address continuing problems in its human rights record. Why do we talk about Uganda?

Mr Berry: What does the Liberal Party say about capital punishment?

MR HUMPHRIES: The Liberal Party's position on capital punishment is to oppose it quite firmly. I hope that that will never change. Madam Speaker, we believe that Uganda should be put in the spotlight at this point in time. Africa generally has been out of the spotlight in the human rights sense for some time, except of course for South Africa and the problems of famine and drought in places such as Somalia and Mozambique. Generally speaking, Uganda has been out of the spotlight. There is a very strong need for us to remind people that serious human rights abuses are occurring in that country.

It is also time for us to be advancing a little further the notion that our concern about human rights does not extend just to people who are like us or who live near us. Our concern for human rights should be just as strong for the person who lives in a remote continent of this world as it is for someone who lives in the next suburb or the next street. We have a common humanity with those people. We have to express that humanity, articulate that humanity, by making sure that we stand up for the rights of all those peoples wherever they might be.

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There is a campaign going on in the ACT around Uganda. It is hoped that the motion which we pass today - and I hope that we will have strong support in the Assembly for that motion - will be part of a campaign by local groups of Amnesty International to produce a banner which will talk about the issues of human rights in Uganda, a banner which will be sent to Uganda together with the motion of this Assembly. So, this motion is part of a broader campaign. It is important for us to take this step, particularly given that the ACT Assembly branch of Amnesty International has asked the Assembly to pass this motion today. I indicate that I do not generally see it as being profitable for us in the Assembly to get into extensive debates about international affairs, but I believe that this is an exceptional circumstance that we should acknowledge. I commend the motion to the house and hope that we can all support this important step towards acknowledging the rights of people in Uganda.

MS SZUTY (10.49): Madam Speaker, it is indeed a privilege to be speaking today on this motion as a co-convenor of the ACT Legislative Assembly Amnesty group on the first occasion on which this group has moved a motion on human rights in this Assembly. It is important that we, as Assembly members, do not lose sight of the fact that there are countries that do not enjoy the same level of freedom as we enjoy in Australia. We need to keep advocating to other countries around the world the recognition of the human rights and freedom of speech that we hold so dear. We have the obligation conferred on us by that freedom of speech to campaign to bring that freedom to people who speak out for human rights.

It was in this spirit that I volunteered, as did my co-conveners - Mr Terry Connolly and Mr Gary Humphries - to be a part of a tripartite presiding officer arrangement in the demonstration of our belief that Amnesty groups should not operate with any political bias. We have worked in harmony on Amnesty issues and today bring a consensus of support to this motion moved by Mr Humphries.

One aspect of the work that is done by Amnesty International is to recognise advances in human rights when they occur, and of course the motion before us today does just that. We have all heard of the atrocities that have occurred in Uganda in the past, particularly that part of its history during which Idi Amin held power, as was emphasised by Mr Humphries today. There were further atrocities in the period after the deposing of Idi Amin, exemplifying the way that power has been perceived in that country in recent history. The motion before us today recognises as its first priority the commitment to, and improvement in, human rights education of the Ugandan Government as it faces the task of reconstructing a country racked by division for more than 20 years. Regrettably, human rights violations continue as opposition forces try to wrest power from the current Government and as the Government tries to maintain its power. Power can have a corrupting influence, and it is far too easy for countries which have had a history of the use of violence to control their population and their views to use old methods, even when a new regime promises to change the emphasis from the eradication of opposing views to a democratic process.

Today we have the opportunity to inform the Ugandan Government that it is being scrutinised. Civilians need and deserve the protection of their government and must not be the victims of torture and murder because of their political beliefs, or because there exists a military or police arm of government that is not under control. If the Ugandan Government wishes to further the cause of human rights, it needs to extend those rights to all its citizens, not to selectively apply human rights only to people of a similar opinion to its own.

One of the tools used to maintain a power base in many regimes that I have been made aware of since joining Amnesty is that of detention without charge and using serious charges as an excuse to detain opponents. In Australia we recognise that these practices are unacceptable. While silencing opposition may be seen as desirable at times, in Australia dissent is tolerated. We must urge other governments to accept this view, and we can do this to an extent with the passage of this motion. By allowing such measures as summary trial of military personnel to be used against its citizens, the Ugandan Government is not showing a commitment to human rights practice, regardless of its stated commitment to human rights education.

Madam Speaker, by supporting this motion, we are urging the Ugandan Government to "fully implement the international human rights treaties which it has acceded to, and to submit periodic reports on the implementation of those treaties", and we are further calling on it to ratify the International Covenant on Civil and Political Rights. In carrying out these obligations under international human rights conventions, Uganda would signal its intention to live up to the expectations raised by President Yoweri Museveni when addressing the forty-second General Assembly of the United Nations in 1987. He said:

The Uganda Government under the National Resistance Movement begins first and foremost with an unswerving commitment to the respect of human rights and to the sanctity of life.

Those were proud words. However, the evidence put forward by Amnesty has shown what a hard task that has been, and that in fact in the five years since that speech was made the aim has not been met. What we, as one parliament of many thousands around the world, are doing by passing this motion is acknowledging that the change was always going to be a large and difficult one. We acknowledge that there has been progress in the Ugandan human rights record in the recent past and that we support the Ugandan Government's efforts to further improve conditions for the Ugandan people. But there needs to be real and tangible change, and democratic governments around the world should urge and support the implementation of these changes as soon as is possible.

With Ugandan elections scheduled for 1995, the greatest variety of political views needs to be nurtured and allowed to be expressed. Elections have already been delayed once and should not be delayed any further. Planning for elections takes time and, for the Ugandan people to have their say, they need to be exposed to the fullest range of views. Opposition cannot be allowed to be quashed. Abuse of human rights only breeds fear and opposition among the people. As members of this Assembly, we need to join with our parliamentary colleagues elsewhere in urging the Ugandan Government to recognise that its best interests internationally will be served by ensuring that human rights are both observed and developed as intrinsic rights. Madam Speaker, I commend the motion to the Assembly.

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MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.55): On behalf of the Government, I have great pleasure in joining other members in supporting this motion. The Amnesty International parliamentary group within this Assembly operates on a very clear tripartite basis with co-conveners - Mr Humphries representing the Opposition, Ms Szuty representing Independent members and me representing the Government. From time to time our parliamentary group, in concert with other parliamentary groups across Australia and indeed across the world, will be bringing before this Assembly motions expressing a viewpoint on a particular human rights violation. The first such motion to be moved in the current parliament is this one moved by Mr Humphries. The moving of these motions in future will be spread across the three co-conveners so that it is abundantly clear that no partisan advantage is being taken.

Mr Humphries, Ms Szuty and I spoke about this before the motion came forward today. That is as it should be, because the acknowledgment of the importance of human rights internationally is a matter on which no party should take high moral ground above the others. Within the Labor Party we have a long and strong tradition of support of international human rights. Mr Humphries made the point that human rights do not stop at international borders, and that is something that we strongly endorse. Australia took a strong role in drafting many of the international covenants that currently govern human rights. We in the Labor Party take particular pride in the fact that Dr Evatt, a great internationalist and a great supporter of the United Nations system, was the first to push the world down this path of international treaties respecting human rights.

Amnesty has operated for many years as a group lobbying governments overseas and encouraging public support for pressure on foreign governments on human rights. Cynics often say that it is a waste of time; that individuals or groups protesting against events in another part of the world really have no impact. I think Amnesty has shown that that is not the case, but so too have other protest movements. In years past many of us on this side of the chamber took part in protests, for example, against the South African apartheid regime. International pressure from individuals and from governments through sanctions has worked. The enormous changes that have occurred in recent years internationally are a testament to the effectiveness of pressure from groups such as Amnesty, from foreign governments and, most importantly, from individuals who will stand up and say that human rights violations are unacceptable wherever they occur.

This year how significant it was during the Olympic Games telecast to see Nelson Mandela attending those international games and cheering on a multi-racial South African sporting contingent. Only a year ago that man was a prisoner of the South African regime for his viewpoints. He was a political prisoner, the sort of person that Amnesty has long been lobbying for. Lobbying by Amnesty and action by individuals can achieve results.

Unfortunately, there is often a popular pressure to criticise people who will stand at a picket line outside an embassy seeking to put pressure on a foreign government for a human rights violation, but I certainly would always stand proudly in support of the right of individual Australians and individual Canberrans to express that sort of protest and put that sort of pressure on foreign governments, because it has worked. The person who is first on the picket line is always criticised. Back in the 1970s there was enormous pressure from

conservative forces on people who were protesting against the South African rugby tours; yet now we have bipartisan support for the enormous importance of abolishing apartheid regimes and for multi-racialism in South Africa. Those who are first to express the protest will often be the butt of criticism; but, if they are right, they should stick to their guns and make that protest.

Today, as Mr Humphries mentioned, it is particularly appropriate that we are moving this motion in this Assembly as it is a day when Africa focuses on human rights. Perhaps we have generally overlooked what has been going on in Uganda as we have been focusing on the events in South Africa - the hoped for progress that it was achieving earlier this year and the appalling events of recent massacres. Uganda is an important country for us to focus on. Australia has had long involvement. Australian military forces were involved in some of the training of the Ugandan Army when they came to power through the overthrow of Idi Amin. A Commonwealth training force, of which Australia was a part, assisted in the military intervention from neighbouring countries to oust the Amin regime.

Of course, the regime of Idi Amin was a byword for repression, torture and horror. In the late 1970s when he was overthrown there were great hopes that the new regime would bring with it a commitment to human rights. It has brought with it that commitment; but unfortunately, as has been documented by Amnesty, the record does not match the rhetoric in all cases of human rights within that country. It is important for parliaments such as ours to say that we support the commitments to human rights in this country, but we urge the Ugandan Government to take stronger steps to ensure that those obligations which they have entered into will be, in fact, matched.

I was pleased to hear Mr Humphries's strong support for the Amnesty viewpoint that the death penalty is unacceptable. It is encouraging that in this Assembly we have a degree of unanimity on that point. Unfortunately, from time to time in other parts of Australia politicians will often float the idea of the reintroduction of the death penalty. It is always a way to get a cheap headline, I suppose. It is encouraging to see that we, across a partisan divide in this Assembly, can take a strong stand on principle and say that we believe that this is wrong and that, as a civilised society, we should not go down that track and, indeed, we should resist attempts from time to time to push us in that direction. I was pleased to hear those remarks.

Madam Speaker, on behalf of the Government, I have pleasure in supporting this motion. It is important for parliaments such as ours to show that we are concerned about events beyond our borders, and it is particularly important that we have within the parliament an Amnesty group comprising members, persons working for members and persons working for the Assembly Secretariat. We can demonstrate that this is an issue that we take a multiparty approach to and that we are totally united on. I hope that Mr Stevenson can also lend some support to these issues, although I note that he is wont to stand up here and be very critical of United Nations instruments which entrench basic rights. He is wont to get up here and rant about one world government and the sinister conspiracy that operates at United Nations headquarters. But one hopes that, despite those aberrations, he too can join with us in urging the Ugandan Government to comply with those important international human rights treaties which it has freely entered into.

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MR LAMONT (11.03): I appreciate this very brief opportunity in the life of this Assembly to concentrate on human rights issues, particularly as they affect Africa. Madam Speaker, in 1969 I had my attention drawn to a range of measures being put into place in Uganda and a number of other African countries with the demise of the colonial powers that had sustained those countries. I am not going to comment in too much detail on the way in which they sustained those African countries. Nevertheless, there was a gradual realisation, which was demonstrated over the next decade and a half, that the colonisation by European countries of Africa should cease; that the way in which the colonial powers had established themselves in those countries was not in the best interests of the indigenous populations. The rise and rise of Idi Amin, as one example, showed that what filled the vacuum created by the removal of the colonising powers was quite often worse in terms of the absolute misery and abject terror that resulted as the new regimes proceeded to have their way with their fellow human beings in Africa.

Although today is a day to focus on human rights violations and on positive developments in African countries, we should also focus on what is happening in our own country and indeed in other Western countries. When we are either scornful of or praising what is happening in countries such as South Africa, we often forget that countries such as Australia and the United States of America are still in fact operating their own apartheid. It is not the political apartheid of South Africa that is institutionalised and enshrined in law, but it is economic apartheid. We see it most clearly in countries such as America. Economic apartheid has in fact been a mainstay of that country for the last 200 years. While we have this opportunity to focus on human rights issues and, at the suggestion of Amnesty International support this motion today, we should have a look at some of the issues that Mr Connolly raised in mentioning people in this country who have attempted to bring attention to and end economic and political apartheid and oppression in Africa.

I was extremely fortunate to be involved in a group of people who were responsible for erecting the Southern African Liberation Centre outside the South African Embassy. We believed that there needed to be a permanent reminder to the people of the ACT and, because Canberra is the national seat of government, to the people of Australia that, while atrocities in South Africa had not been in the news every single day of our lives for the last 20 years, they were continuing every single day of our lives. I believe that that permanent reminder, which some people are attempting to have removed, is a proper demonstration of people's concern that such atrocities are something which should be addressed not on one day of the year but on every day of the year.

That is the object of Amnesty's program on Uganda. It is quite proper that we do not just stand up with some piety and suggest that we need to address the problems in Uganda on this day. We should be doing it every single day. Indeed, in my view, Amnesty's role allows us to concentrate on these issues every single day of our lives. It is through the activities of organisations such as Amnesty and our parliamentary branch of Amnesty that such issues are continually drawn to the public's attention. We as members of the human race have a responsibility to ensure that, wherever there is the type of oppression which exists and has existed in Uganda, South Africa, Mozambique and other African countries, we draw the attention of our fellow countrypeople not only to that but also, as I said in my opening remarks, to the type of oppression which exists in our country and focus on those issues.

Madam Speaker, during the 1970s I had the fortunate experience of meeting Eddie Funde, who was the ANC representative in Australia, and also Maxwell Nemadzivhanani, who was the representative of the Pan Africanist Congress in Australia and who then went on to represent the PAC in an unofficial delegation to the United Nations. Both of those gentlemen travelled extensively throughout Africa. It is a tribute to their commitment to human rights in Africa - all of Africa - that both of those gentlemen now are regarded as very valuable citizens of the emerging new South Africa. But it is only an emerging new South Africa as Uganda is only an emerging new Uganda.

It is my greatest and fondest hope that, through support of motions such as this, we can say to the Government of Uganda, "Look, you should be holding democratic elections. Yes, 1995 is only two years away; but your country is a long way from true democracy, as South Africa is still a long way from proper democracy". We should not allow some very small movements against the totality of the oppression existing in those countries to lull us into a false sense of security. We should not allow the fact that Nelson Mandela, as an example, has been released from gaol to lull us into a false sense of security that the institutionalised apartheid in South Africa has gone. It has not. When you get rid of your institutionalised apartheid, you still have your economic apartheid. That is just as sinful as the first one.

Again as I said in my opening remarks, it is incumbent upon all of us to ensure that, while we talk about Uganda and the other African countries today, we look at ourselves because within our own country there is still a great deal of work to do. I certainly hope that Amnesty is successful in speeding up the reform process in Uganda with the support of this chamber and the staff of this Assembly and with the support of other parliaments throughout Australia. I believe that it is a matter upon which there should be unanimity when the vote is taken. The vote should be 17-nil. The issues are so significant that petty political differences which at times cause us to hold different views in this chamber should quite clearly be put aside as this motion is being considered. We are representing the people of the ACT. I believe that the motion before us today is one on which there is unanimity within the population of the ACT, and this Assembly should be able to demonstrate that.

MS ELLIS (11.12): Madam Speaker, we have probably overlooked Uganda since the departure of Idi Amin. It is with some sadness that I can look back and recall during the reign of Idi Amin a fairly pathetic attitude by some members of the Western community in particular. I can recall seeing comedians stand up on television and do comedy roles depicting funny lines attributed to Idi Amin. It is only now that, thank heavens, we have matured somewhat in global terms and are coming to grips with the horrific reality of people such as Idi Amin. But, as I said at the outset, unfortunately we may have sat back in a cocoon of security knowing that he had gone and believing that the problems had gone with him. We know that that is not true.

Thank heavens we have come a long way since then, but obviously we have not come far enough. We in Australia are generally very fortunate. We do not live in a world of constant fear about what the next day may bring to us or our families. The frustration that I personally feel is the need that organisations such as Amnesty have and that each of us as individuals has to bring the spotlight of

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world attention to so many places at one time. Tragically, there are many countries in the world where that spotlight should be used. We could stand here and name them all, but today we are going to concentrate on Uganda. At the same time, we should not forget Burma, Somalia and all the other places that we might care to name.

We need to exert our efforts tirelessly to change the wrongful attitudes that some of our population in Australia may have towards others - other Australians as well as people of other races. We have to be vigilant against those attitudes and work tirelessly to change them. The work of Amnesty International is a contribution that this world cannot go without. Many members of our community belong to and support this organisation, and I personally hope that the focus of Amnesty Week will encourage more people to realise the current realities of this world and join in the efforts to correct the inhuman practices of the oppressors. The evidence that I saw at the poster competition which was used this week to launch Amnesty Week encourages me. It was a poster competition involving schoolchildren. As with all other problems this world faces - be they environmental, be they human rights - the hope that we get as community leaders, I believe, should come from our young people. If we can see that indication in our young community, there is hope for us all.

It is my pleasure to join other members in commending this motion to the Assembly and to the people of Canberra. As I said at the outset, we may have temporarily forgotten the Ugandan cause, but the emphasis of Amnesty Week this year on Uganda and Africa can refocus us and put Uganda back at the top of the list.

MRS GRASSBY (11.16): Madam Speaker, I rise this morning to support Mr Humphries's motion. The events that have been reported in Uganda over the last 20 years show us the irresponsible manner in which the media may be used. We had a little taste of it over the weekend. It was the subject of the MPI yesterday in the house. The problems in many countries around the world often have their beginnings in the shameless way in which the old-world countries have exploited both the people and the assets of other countries, causing an extremely low standard of living for the people involved. Democracy is not something to be taken easily. We in this country are fortunate to live where all citizens have the right to vote a government in or out of power, are not thrown into gaol or maybe shot and do not disappear. We take this right of democracy, I feel, with very little thought and appreciation. It is only motions such as this that make us realise how lucky we are.

Madam Speaker, the poverty that people in some countries are forced to endure has meant that the privileged few in power have come to fear the people they should represent. Madam Speaker, Idi Amin left behind a legacy of fear in Uganda. Uganda's society does not know the luxury of trial by jury, and peaceful demonstrations are also unknown. However, we must remember that citizens from all levels of Uganda's life live in fear. Soldiers have virtually no rights. A method that was infamous 50 years ago - known as "night and fog" - is still used today. People disappear and are never seen again. We all know that this happens not only in Uganda but also in many countries in South America and around the world.

I remember the day I met the former Ugandan ambassador, who managed to get sent to this country when Idi Amin was running Uganda. I am sure that many people in this house know him, his wife Sonya, and John. He was very grateful to get out of that country and to be able to bring his family with him. One night, over dinner he told us the most horrifying stories. The only way he could get out of the country was to ask to be Idi Amin's doctor, and to talk Idi Amin into sending him here as ambassador. Once he got here, his great joy was to be able to become a citizen of this country. He told the story of how Idi Amin cut off the head of one of his generals, because the general had not agreed with him, and placed it in his fridge so that he could look at it each day. I gather that things have not changed very much in that country. People are disappearing, and they still do not have very many rights. We heard from Mr Humphries how soldiers are shot because they do not agree with the people running the country.

The plight of the people in Uganda is the responsibility of those of us who live in a free and independent nation. The world is a shrinking place. We can no longer separate ourselves from our fellow men and women who are suffering from the lack of what we have come to take for granted, no matter what their race, religion or colour. I have always had a saying: Nice people come in all colours, races and religions. We must unite against the oppression of those people wherever and whenever it occurs. It is our duty as a fortunate nation to alert all to this tragedy that we see happening.

Madam Speaker, I think it would be fitting for this Assembly to have a minute's silence to remember all those who have fallen, not only in Uganda but around the globe, due to the atrocities of the men who control these countries. As Robbie Burns said:

Man's inhumanity to man
Makes countless thousands mourn.

A minute's silence would enable us to ponder over what has happened to people around the world because they have not agreed with a government that has either taken over their country or managed to institute a fraudulent voting system, thereby depriving people of the right to put into power the government of their choice. We all know that in many of these countries ballot-boxes disappear and people are killed because they wish to have the right to vote for the party of their choice.

We are shocked when business fraud is committed in this country. In countries all around the world people do not have rights. Ballot-boxes disappear and votes are changed to put a government into power. I think it would be fitting for the Assembly to have a minute's silence to remember all those who have fallen, not only in Uganda but in all the countries of the world.

MR STEVENSON (11.22): I support fully human rights. I have often worked in Australia and in England for human rights. I absolutely support the proposition that the Ugandan Government should support human rights. There is absolutely no reason whatsoever why they should not fully implement the rights mentioned in treaties. There is no reason whatsoever why they should not submit reports to anyone they so choose. However, I implacably stand against United Nations and other international treaties that would destroy the sovereign rights of individuals; that would destroy the rights of individuals to determine what happens in

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their country. These international treaties limit the rights of governments elected by the people. If they are not elected, of course, if they are dictatorships, that is a different matter. Governments should be elected by the people and the laws of that nation should be determined by those people and their elected representatives.

Let us look at some of the United Nations conventions. There are good declarations that recognise a number of classes of rights. They recognise life and liberty; they recognise due process of law. When the Universal Declaration first came out, article 17 recognised the right to property; but the right to property was omitted from later covenants, although the Council of Europe fully recognise the right to property. One could ask: Why was this omitted? We had a situation where a Bill of Rights was accepted in the Soviet Union for decades, yet the Soviet Union was responsible for the deaths of tens of millions of people in their push for a socialist one-world government. It is not too long ago that Mikhail Gorbachev reiterated his total commitment to the ideals of communism. He did not say that he had changed; he said that he would never change. Their goals would never change.

It is interesting that the debate on human rights has basically been directed to non-communist countries. For decades we had the situation where the eyes of the world media, and many governments, were not on communist countries but on non-communist countries. I ask: Why is this? Mr Lamont mentioned earlier the African National Congress. Yet Nelson Mandela supported terrorism for many, many years. It is not too long ago that he repudiated the use of violence.

Mr Lamont: I think you are selectively misquoting.

MR STEVENSON: Mr Lamont says that I am selectively misquoting. Let me paraphrase a quote from Nelson Mandela. In his book *How to be a good Communist*, he wrote that communism is the greatest movement in the history of mankind. Was that selectively misquoted? Or the statement by his wife, Winnie Mandela, that encouraged people to necklance others? What is necklancing? It is tying someone's hands with wire, perhaps behind their back, putting a rubber tyre around their neck, pouring petrol in it and on them, and setting fire to it so that they are burned alive. Why not use a spear? Because of terrorism, as supported by Nelson Mandela and encouraged by the Australian Government, with their financial support. It was \$16m two or three years ago and \$15m one year later on.

I note that a number of members of the Labor Party are smiling about this. What is there to smile about when we look at Australian taxpayers' money being given to the ANC to support their terrorist takeover of Africa? What is there to smile about when we look at these things? Why does the Labor Party support the ANC and their terrorist activities? Why did they not support Chief Buthelezi, who had far more people supporting him?

Mr Connolly: Who is funded by the South African Government; who has been documented by their royal commission to have been involved in tribal violence.

MR STEVENSON: Mr Connolly talks about the Zulus being involved in tribal violence. Year after year after year, they tried not to retaliate to the ANC tactics, supported by this Government in Australia, when they gave money to the ANC. Finally, they started to retaliate. That has been picked up by the media - talk about selective quoting - who totally misrepresent the true situation. It is a sad case indeed. We hear about *60 Minutes* and their misrepresentation. They have done it again, because in the past they have supported the ANC in their shows.

Where do human rights violations start? Where does the suppression of a people start? It often starts in countries that are not known to be dictatorships, that are not known to be involved in the murder of their citizens and in vast human rights abrogations. The countries that do these things start by ignoring the will of the people. They take no notice of what the people want. People gain control of governments that should not have the title of "government". They are funded by powerful organisations, which may include international business organisations. They start by ignoring the will of the people. They implement crushing economic burdens on the populations. They implement law after law after law that continually reduces the right to freedom of expression, in exactly the same way as certain parts of the Discrimination Act that was passed in this Assembly last year do.

Those particular sections could well have been overturned by a High Court that said that Australians do have the right of freedom of expression. I know that that was a blow to those who said that we have no right to advertise a political message in the electronic media. I know that that was a blow to the Federal Labor Party, which wanted to prevent that. It was not just during the pre-election time that they wanted to prevent that; the initial proposal was for the full year, although some people do not know that. What a total abrogation of responsibility! Where does it say in the Constitution that individuals can arrogate to themselves the right to tell others in Australia that they have no right of freedom of expression?

You wonder where human rights violations start. Look to our own country. Read the Bill of Rights that was kicked out by the people in Australia but was supported by the Labor Party. Read the actions referred to in the Bill of Rights. This is the Bill of Rights that was taken from the United Nations. This is the same Bill of Rights as in the Soviet Union. Most of the clauses are the same. It is interesting to look at some of the United Nations treaties and bills of rights. Often what they say is that a person has a right to do something, and at the end they commonly use the term "except in accordance with law". So, it is usual that they do not talk about inalienable rights; they talk about rights that can be given by those people that control governments and taken away by those people that control governments. Let us look at who introduced most of the United Nations treaties and, indeed, the United Nations itself. Those influential in drafting these human rights treaties made up the greatest cabal of political and tyrannical governments you would ever want to know.

I now move:

Omit paragraphs (3) and (4) (second occurring).

I support the action of anybody standing up for people's rights, but not by usurping the sovereign rights of countries. What happens when that is done we find in history.

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MR HUMPHRIES (11.33): Madam Speaker, I indicate that I cannot support the amendment moved by Mr Stevenson, particularly with respect to the third paragraph. Mr Stevenson makes points about the inadequacies of certain international conventions. He has a view about that which we have heard before. It is not a view that I personally share, but he has that view.

The point here is that the Ugandan Government has agreed to those international conventions. The two conventions referred to - the Convention Against Torture and the African Charter on Human and People's Rights - are conventions protecting human rights to which the Ugandan Government has acceded. Whether the Ugandan people should be party to those treaties is irrelevant in this debate. The question is whether the Ugandan Government will pay more than lip-service to the treaties it has entered into. It is not a question of international treaty; it is a question of contract. The fact of life is that the most blatant abuses of power have occurred on the part of the Ugandan authorities and, therefore, it is the Ugandan authorities that should be held to account and encouraged to honour the agreements they have entered into.

I am a little disappointed that this debate has become as controversial as it has. I hope that we are able to support the thrust of this motion as it stands, without amendment. I remind Mr Stevenson that this motion is being passed in the same form by other Australian parliaments, and I am quite certain that they will not take out those last two paragraphs. It would be unfortunate in the extreme if our motion were to be significantly different from motions that are being passed by other Australian parliaments. I urge members to consider the impact we can have on the very important question of human rights in Uganda by passing the motion in this form. It is not a question of adding our own agenda or taking away from the motion to suit our own agenda. It is a question of making some impact which will be helpful to the people of Uganda. Let us not get sidetracked into other issues that really are sideshows to this important issue. Let us give this motion the support it deserves. We hope that it will have some impact on the human rights situation in Uganda.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.35): The Government totally rejects the amendment. It is an opportunity for Mr Stevenson once again to tramp out his socialist world government theory of the work of the United Nations, a view that both major parties would find offensive. The United Nations has been supported strongly by Australian governments of all persuasions since its inception. We have a proud record of support of the United Nations. We are one of the few original members that have always kept up their financial contributions to support the work the UN does in every part of the world. We have done that under both Labor and Liberal.

It is only an odd lunatic fringe that seems to take this conspiratorial view of the United Nations. It ill becomes us as an Assembly that we are having to go down this track on what should be, as Mr Humphries said, a totally supported motion. This motion is going before parliaments around Australia in identical terms. I wonder whether anyone else will bother to move these sorts of amendments in other chambers in Australia. This is an opportunity for us to commit ourselves firmly to the progress of international human rights, and I urge all members to do so.

MR MOORE (11.36): Mr Stevenson's objection and his amendment to the motion raise a very important issue, and that is the right to free speech. It is interesting that we sit around here and respect his right to have his opinion and to present that opinion. We may disagree with it; it seems to me that there are 16 members who disagree with him on this very vital issue. Some of us probably feel very sad that we cannot present a unanimous resolution, if that is what is going to happen - and I do not want to pre-empt the vote. If it is the case that we cannot present a unanimous resolution, that is a very sad situation. However, it does at least present the fact that we resolve problems by debate and we recognise other people's human rights, in particular in this case their right to free speech. Therefore, I will be opposing the amendment, and I take great pleasure in supporting the motion.

MR STEVENSON (11.37), by leave: I think Mr Moore's point was well made. We do stand for freedom of speech, and the way to maintain freedom of speech in this nation is not to allow it to be abrogated by laws made in other countries. The people of Australia should determine what happens in Australia. The people of Uganda should determine what happens in Uganda. One could well ask whether the people of Uganda were asked whether they wanted to join the United Nations.

Mr Berry: They would not get the chance to reply anyway.

MR STEVENSON: That would be the point. I well understand the human rights violations in Uganda. They do not approach the disaster caused by AIDS in that country. There are many problems in African countries. Anything we or anyone else in Australia, or in overseas countries, can do to support human rights, to support the right of individuals to stand up for freedom in their own country, I accept fully. But I do not accept the idea that we should have a world order that determines how countries should operate. I do not accept the idea that we should have a world order that tells people in countries how to operate, particularly a number of Western countries that have a proud tradition of rights not seen in other countries, most of which made up the initial push for the United Nations.

I support these things. I may be alone in standing against the idea that international treaties should determine what happens in sovereign countries. I note that many politicians in this nation worked to destroy the right of Australians to appeal to the Privy Council in England, and I was just waiting for a moment - - -

Mr Connolly: Yes, absolutely, a great achievement for Australia, with the support of Labor and Liberal State governments.

MR STEVENSON: I paused, waiting a moment for the Attorney-General, Terry Connolly, to make the inevitable comment: "A good thing too; we should have". What about the incredible hypocrisy of Mr Connolly supporting the right of individuals in Australia to have a case heard before the international courts and the right of international courts to override the sovereignty of Australia? How do you say on the one hand that we should prevent Australians from going to the Privy Council and that it is good that that was stopped, and say on the other hand that we should - - -

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Mr Connolly: On a point of order, Madam Speaker: I think "incredible hypocrisy" has been ruled unparliamentary, but as I do not understand what Mr Stevenson is saying I will not pursue the point. However, he might be reminded that those phrases have been ruled on in the past.

MADAM SPEAKER: I take advantage of the pause in proceedings to focus your attention on the relevancy provisions of our standing orders, Mr Stevenson, and to ask you to speak to your amendment.

MR STEVENSON: Madam Speaker, I can think of nothing more relevant than to give examples to do with international treaties. What is it that my amendment talks about if it is not specifically international treaties? I have already agreed fully with the rest of the motion. What I disagree with implacably is that countries should have their rights overridden by some international groups. The point I made was that it was hypocritical in the extreme to state that Australians should not have the right to appeal to the Privy Council but, once that is done away with, to force us into a situation where people can appeal to international courts, which can then override sovereign law in Australia. While I may be the only one speaking on these matters today, in time in Australia there will be many more.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (11.43): It was not my intention to speak on this matter, but the comments and contribution made by Mr Stevenson have drawn me into the debate. I am most disturbed at the sort of line Mr Stevenson has adopted. I am pleased that he has been exposed again for his out-of-step approach to international relations and the empowerment of people in countries where they are being oppressed. I say to you that, if in the far distant future there were a regime in this country that oppressed the people, I would want something like the United Nations to look after the interests of the people. When Mr Stevenson argues that the United Nations ought not step in to do something about the oppression in countries such as Uganda and that we should not have some sort of international body that can move on countries that oppress their peoples, Mr Stevenson is out of touch with the rest of the world.

What he is suggesting is that if there is oppression in a country it ought to be allowed to continue, because nobody else can interfere. That is an outrageous suggestion. That is what you are suggesting. You are saying that what occurred in Chile for generations should continue to occur, that there should be no move to democracy in Chile. What you are saying is that anywhere else in Latin America where there has been oppression you should ignore it; you should not interfere with the sovereignty of that country; you should do nothing about oppression. This is absolutely outrageous.

To raise these socialist world government arguments, and the Rome-Moscow-Jerusalem axis and all this sort of claptrap is an absolutely outrageous position. I have to say that those sorts of comments bring nothing but disgrace to you and some odour to this Assembly.

Mr Stevenson: When I get a chance I will be happy to comment on the United Nations move into Katanga in the Congo.

MR BERRY: I do not want to hear, to be frank. I just do not want to hear. You can speak as much as you like. One of the things that you have a right to do in this Assembly is walk out and not listen to some of this rubbish.

Mr Stevenson: Well said. That is exactly what I will do.

MR BERRY: We would like you to come back and vote, Mr Stevenson. I think I have made my point in relation to this matter, Madam Speaker, and I will leave it at that.

Question put:

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

The Assembly voted -

AYES, 1

Mr Stevenson

NOES, 16

Mr Berry
Mrs Carnell
Mr Connolly
Mr Cornwell
Mr De Domenico
Ms Ellis
Ms Follett
Mrs Grassby
Mr Humphries
Mr Kaine
Mr Lamont
Ms McRae
Mr Moore
Ms Szuty
Mr Westende
Mr Wood

Question so resolved in the negative.

Motion (by **Mr Lamont**) agreed to, with the concurrence of an absolute majority:

That so much of the standing and temporary orders be suspended as would prevent a call of the Assembly on the next question.

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Question put:

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

The Assembly voted -

AYES, 16

NOES, 1

Mr Berry
Mrs Carnell
Mr Connolly
Mr Cornwell
Mr De Domenico
Ms Ellis
Ms Follett
Mrs Grassby
Mr Humphries
Mr Kaine
Mr Lamont
Ms McRae
Mr Moore
Ms Szuty
Mr Westende
Mr Wood

Mr Stevenson

Question so resolved in the affirmative.

MENTAL HEALTH LEGISLATION

MRS CARNELL (11.50): I move:

That:

- (1) the Government proceed quickly to a Bill for a new Mental Health Act;
- (2) the Government have the draft Bill ready for consideration by the new Mental Health Advisory Council within the next two months; and
- (3) recommendations from the report *Balancing Rights* (November 1990) constitute the basis of the new Act.

The purpose of this motion is to urge the Government, Ministers Connolly and Berry in particular, to cut through the delays and to have a new Mental Health Act in front of this Assembly in as short a time as possible. This week is Mental Health Week, so I feel that it is particularly appropriate that we are discussing this very important issue at this time. Also, it is almost exactly two years since the *Balancing Rights* paper was tabled.

In speaking to this motion I would like to note and to commend the initiatives introduced by the Government in the budget earlier this year. These include outreach workers for adolescents with mental health problems - a very appropriate initiative, although it will not overcome the lack of facilities for young people with mental illnesses. That is something that we hope that the adolescent unit will do. The budget also included the establishment of an intensive care team for the seriously mentally ill, and a service for mentally ill patients coming into contact with the criminal justice system. The new Mental Health Tribunal will be particularly important because its ultimate purpose is to cut down the delays being experienced when mental health cases are brought before the Magistrates Court. Urgent action was needed to correct this problem, and I am pleased to see the Government's first step in this regard.

Nevertheless, the measures announced in the budget still do not get to the core of the problem. I am sure they will help, but the Government still needs to put in place a more fundamental reform, and that is the proposed new mental health and community care Act. This legislation was the cornerstone of the *Balancing Rights* paper. Let nobody think that the Government has so far discharged, or even nearly discharged, its obligations in the reform of mental health. A lot remains to be done. In fact, a lot more remains to be done than has so far been achieved. Over the last year many commentators have been concerned about the situation in mental health and the dramatic slowness of the reforms in this arena. The issue is certainly not a new one. It has been going for more than just the last year; but things really do seem to be coming to a crunch.

In November 1990 when the report *Balancing Rights* was published by the ACT Mental Health Review Committee, it contained a comprehensive list of recommendations and really set the groundwork for a new mental health Act. Yet, like so many expensive and extensive reports, it seems to have been collecting dust on the shelf. What has happened to the very good work that these very eminent people did? It is especially distressing to see this report being put on the shelf, in view of the fact that at the time it was very well thought of and well received by the community at large.

I have noticed the recent formation of a new Mental Health Advisory Council consisting of interested people from the community. Even with this initiative, I am concerned that mental health reform seems to lack a clear focus. This Government seems to believe that setting up committees somehow substitutes for real action. This lack of action was certainly apparent to Brian Burdekin, the Federal Human Rights Commissioner, who said earlier this year that he "believed that the evidence in the ACT shows very clearly that the mentally ill are still being treated like second- or third-rate citizens, that they are not high on the list of priorities". It certainly seems that way. If they were high on the list of priorities the Labor Government would have brought about the necessary reforms many months ago.

Balancing Rights, as I said, was published in November 1990, which I have also said was almost two years ago. If we need any evidence at all, this is definite evidence of a clear lack of action and lack of priority in this arena. Meanwhile, many people are concerned that abuses of human rights continue each day in our mental health system in the ACT; for instance, in the way treatment orders are made and discharged, and the arrangements for emergency detention orders.

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The *Balancing Rights* report was most concerned with the law relating to involuntary detention and treatment. In fact, ACT Legal Aid has claimed:

The emergency detention powers are, from the perspective of the detained person, quite frightening. [Legal Aid] has seen cases where the evidence on which the initial diagnosis of mental dysfunction is made is very tenuous indeed. The person may then be detained and treated, including the administration of some very powerful drugs, against their will for at least 72 hours.

ACT Legal Aid goes on to say:

We have often seen cases where the person had been detained for up to a month before an application for treatment had been made. During this period, two or three emergency detention orders had been made. The usual explanation from the health authorities was that the person had agreed to be a voluntary patient for periods between these orders ... This is despite the fact that the person was never told they were at liberty to leave, their day clothes had been taken away from them and locked away, and despite the fact that the present ward has secured doors which must be opened from both directions by a security key.

These reports are obviously very distressing. The court process surrounding mandatory detention and treatment orders remains one of the most important areas needing to be reformed. The Mental Health Tribunal will be a very important step in this direction.

As well, we must make sure that the mentally ill are not necessarily forced into court when treatment orders are being processed. This can often be very alienating and traumatising for anyone, let alone somebody in a position of being mentally ill and in a system that they do not understand. Instead, *Balancing Rights* recommended that qualified doctors be able to order involuntary detention and treatment within the first 24 days, and a mandatory hearing of the Magistrates Court or a mental health tribunal is required after this initial period. In other words, the Government must look for ways to resolve mental health cases without having access to time consuming and often traumatising court processes. For example, the patient must always have a right of access to court at any stage of the voluntary detention or treatment process, but only have a right to that.

In fact, one case that springs to mind - one with which I have some personal involvement - shows the very difficult problem that comes in the mental health area and balancing rights. It is a case where a mother and father and a daughter, who is now 19, live together. Mother has been agoraphobic for many years. Father has recently retired on a carer's pension to look after her. The daughter seems to now be diagnosed as being agoraphobic and also schizophrenic. Because she is agoraphobic she will not submit to voluntary treatment; yet the home situation is totally unacceptable for her to be treated in an appropriate way. To balance her rights as a 19-year-old who is on an invalid pension already and really is heading nowhere in her life without appropriate treatment, in a family with a mother who is already agoraphobic and, to my knowledge, has not been outside the door for 20 years, and to balance the rights of the doctor attempting to

treat this young lass, the rights of the carer and the rights of the mother, is a problem that I do not think any health system wants to face. But it is a problem that really must be faced as this young lass is getting no treatment at all at this stage, which I am sure nobody would see as appropriate.

It has also been argued that under the present law the duties and obligations of mental health staff are definitely not transparent. Consulting the various bits and pieces of present mental health legislation does not make readily apparent to staff members what their responsibilities are. This has led to confusion and may have been an underlying cause for the electroconvulsive shock therapy incident recently. So, a clear statement of the duties and obligations of providers is important.

On the other side of the coin, the legislation must also contain a statement of the specific rights of patients. The Community Advocate also has been a very important reform in terms of protecting the rights of the mentally ill. However, it was noted in the recent Estimates Committee hearings that the Community Advocate is overworked and underresourced. Many of the key recommendations of the *Balancing Rights* report depended on having a properly resourced, independent Community Advocate. Whilst the Community Advocate has played an invaluable role, the advocate has no power to enforce the disclosure of information, such as patient records, and she is bound to rely on the goodwill of those she is investigating.

To sum up, it is apparent that there are a number of pressing reasons to introduce the proposed mental health and community care Act as soon as possible. This year there has been a stream of newspaper articles on the poor state of the mental health system in the ACT, culminating, of course, in the EC shock therapy incidents. Mental health is a complex area, but the Government has had a long time to introduce this new legislation. The Government, as I said, has taken some positive steps, but the approach so far is piecemeal. A more fundamental reform is necessary, and necessary now. I sincerely hope that the budget initiatives we have seen recently will be the start of an energetic process of reform, and that we will see this new Act for consideration by this Assembly and by the new Mental Health Advisory Council in the very near future. It is in the interests of all ACT residents for that to happen.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (12.02): Whilst I respect wholeheartedly the right of members to raise issues of concern to the community in the course of debate in this place, in the mental health area I find it most distressing when issues are raised which will impact on the well-being of those coping with a mental illness out there when it becomes a matter of public debate. Mrs Carnell has taken the quick-quick, slow-slow approach. It is not - - -

Mrs Carnell: You do not like it when I say that things you have done are good.

MADAM SPEAKER: Order!

MR BERRY: It is too slow, it is too quick; you can never get it quite right with Mrs Carnell. I expect her to take that particular line on most cases and not really go to the issue. On this issue the Government has a pretty good performance, I think. The ACT Labor Government is committed to upgrading the health system in the ACT and has already taken a number of key reforms in this area,

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reversing the trend which occurred under the Liberals. For example, the Mental Health Advisory Committee was dismantled under the Liberals. Under Mr Humphries it was dismantled. It has been reinstated. It is a key reform in the provision of mental health services in the ACT. That was done very early after the last election.

The reforms are based on a number of premises. The most important of these are upholding human rights for the mentally ill and improving the standard of care available to psychiatrically affected people in the ACT. Reform of the ACT legislation concerning mental health is both a necessity and a priority for the Government. Many of the provisions of the current laws are both outdated and unnecessary, as has been rightly pointed out. Nobody has said that the process is not a complex one. It is indeed a complex problem as we are dealing with the development of new laws in relation to this matter, and the Government is getting on with the job.

The Government, as I have said, is committed to community consultation. We have also been involved in the development of the national mental health policy and we continue to be represented on the National Mental Health Advisory Council. That mental health policy and the money which will flow from the Commonwealth will, one would expect, be subject to the signing of the Medicare agreement. I see that Liberals in other States are horsing around with the Medicare agreement at this point and perhaps there is some risk to those mental health funds if the Medicare agreement is not appropriately addressed. It is a most important feature of the provision of health services across this country.

As I have said, we gave a promise on our intention to establish the Mental Health Advisory Council. We have said that we will address the *Balancing Rights* report, and we are addressing it. The council that we have appointed includes a cross-section of mental health consumers, carers and interested people. The new council will provide community input and independent advice to the ACT Government. The Mental Health Advisory Council is another important link in the coordination, but we have also provided for some additional mental health services in the last budget. In a tight budgetary situation we have provided for an intensive care team for the seriously mentally ill which will target people who do not appropriately use the existing services or require more intensive services in order to maintain them more effectively in the community.

We have also provided for an outreach service for adolescents. The service will lead to improved accessibility to mental health services for young people - something that needed to be addressed. We have provided for the establishment of a forensic service in the ACT, and that will cost about \$180,000. So, across the board, we have been moving to provide better services for the mentally ill, and for Mrs Carnell to be critical of the Government in this respect, taking the too slow, too slow, too slow approach, is typical.

There also has been agreement in association with the Attorney-General's Department to establish a Mental Health Tribunal and case management scheme. That has already been announced; Mrs Carnell must have missed that one. It will make assessment and treatment orders in respect of persons suffering from mental dysfunction. That proposal seeks to enhance psychiatric assessment and treatment of mentally ill people diverted from the criminal justice system.

Mr Connolly will say more in relation to legal matters, but I think it is very clear to people concerned with mental health that the Government has taken some positive moves. Nobody denies that a lot more needs to be done. I have to say that I am a little concerned about deadlines being set as proposed within the motion. Two months ago Mrs Carnell argued that it be done within the next two months. Two months ago it was important for it be done by now; now it is not important for it to have been done by now. I do not understand these sorts of motions; you put a deadline on with two months to go and you do not update it when you re-put the motion.

Mr Humphries: It is an extension of time, Wayne.

MR BERRY: It certainly does not present that way. I am not appreciative of these sorts of deadlines. If Mrs Carnell had really wanted to know where we were at, we could have arranged a briefing for her on the particular issue. She does not seem to be interested in finding out exactly what is going on; rather, she is more interested in pursuing a political course which might agitate - -
-

Mr Cornwell: You will give her briefings now, will you?

MR BERRY: She could have asked for one. I will not now. What would you want to do that for? She has already taken a line.

Mr Cornwell: You were not too keen about giving her any briefings beforehand.

MR BERRY: It has to be a two-way street. If you want to take - - -

Mr Humphries: Do not criticise the Minister and you get briefings.

MR BERRY: No, no. If you want to milk it politically, you go ahead and milk it politically; but, if you want compassion from the Government when you milk it politically, go somewhere else, in my view.

Mr De Domenico: You have never had your hand on a political lever!

MADAM SPEAKER: Order!

MR BERRY: Yes, but I know how to play the game fairly and squarely, and that is what we have done in relation to this matter. It is an issue of concern and it is something that the Government is dealing with. I think that is well recognised by the community, particularly those people associated with the mental health carers in the community. As I have said, I have already announced the Mental Health Advisory Council. I think they have had their first meeting. They may even have been to their second. The seminar on, I think, Saturday which began Mental Health Week was a very positive feature in the development of mental health services in the ACT.

We will hear more about it and we will continue to develop services in the Territory in a way which is compassionate, quite contrary to the approach to health which has been taken by the Liberals federally. They will decrease the amount of funding and energy available for State and Territory governments if they are elected. It is clear that there will be significantly less resource available to State and Territory governments to deal with mentally ill - - -

Mr Cornwell: This is the non-political approach he is talking about.

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MR BERRY: You people have to be exposed. You cannot be kind and compassionate on the one hand and follow Hewson on the other; they just do not mix. You follow him obediently every step of the way, you follow in his footsteps all the way, and then you pretend that you are kind and compassionate. You have to be exposed for that sort of hypocrisy.

I will leave it there, Madam Speaker. My colleague Mr Connolly will have more to say in relation to legal matters. I think there is an acceptance out there amongst people who understand these issues that the Government is getting on with the job, and that we will continue to get on with the job and provide compassion to people who need to use our health services in the Australian Capital Territory.

MR HUMPHRIES (12.12): Madam Speaker, I have to rise to that. I see Mr Berry scurrying away, but I think he should stay for this. I am a bit confused about the Government's attitude on this matter. The Government speaks with several voices on the matter. Mr Berry is always very keen to tell us how slowly we moved on mental health matters and what shortcomings we had in government, but I can recall Mr Connolly saying some very flattering things about the achievements of the Alliance Government in the area of mental health on the radio a few months ago. The fact of life, Madam Speaker, is that Mr Connolly is right; we have a number of very sound achievements under our belt of which I am extremely proud as former Minister for Health.

I will list just a few of them. We established the dedicated psychiatric care centre at Woden Valley Hospital. We established for the first time an ACT 24-hour crisis service for mentally ill people. We launched perhaps the most important review of mental health legislation in the ACT, the report *Balancing Rights*. It was commissioned by me in government and came down in November 1990. It was the most important and comprehensive review of legislation in the ACT in this area ever. We proceeded with the plans to deinstitutionalise those with mental health problems, resulting in a transfer of many from places like Bruce Hostel to more appropriate group accommodation in the community and into the suburbs. That is a process that has been continued and accelerated by the Labor Government. We commissioned the construction of the psychiatric units at the Belconnen Remand Centre, which I think, at this stage, are still unopened.

Mr Connolly: No.

MR HUMPHRIES: They have been opened?

Mr Connolly: Yes. That was said in the Estimates Committee.

MR HUMPHRIES: Wonderful news. I think that the focus we gave to mental health matters in the course of the 18 months of the Alliance Government is a matter of considerable pride. Mr Berry scurries off after having told us, "We are taking part in the national program on mental health review and we have set up a committee on mental health". That is all very well as far as it goes; but, frankly, it is not very far.

Madam Speaker, I really have to choke a bit when I hear Mr Berry accuse the Liberal Party of milking this matter politically. Who is the king of milking matters politically in this Assembly? Who was the man who told this Assembly that the casualty section of Woden Valley Hospital was going to close down as

part of the restructuring of the public hospital system in the ACT? That was completely untrue. Who was the man who told us that the hospital redevelopment budget had blown out because the figure had been adjusted to account for inflation? The man who milks things politically is hardly in a position to tell anybody in this Assembly about dealing with matters fairly and squarely.

Madam Speaker, Mrs Carnell has raised a very important matter in this Assembly, and it is the question of what we need to be doing with respect to the enactment of comprehensive new mental health legislation in the ACT. It is a serious and pressing concern which should be at the top of the agenda of all of us, but particularly of the Minister for Health. This review came down in November 1990. By the time the two months which Mrs Carnell's motion refers to has expired, it will have been on the table for in excess of two years. That is plenty of time in which to have responded comprehensively to the recommendations in this report.

Mr Connolly has taken steps along this line and no doubt he will tell us about those when he speaks. There have been some important legislative reforms and they have been welcome in that respect. But, first of all, to make comparisons that are not really warranted is unwise on the part of this Government, and for the Minister to say, "We are doing something; you should be quiet and be patient and accept gratefully what we hand you", is just not good enough. The mentally ill of this Territory deserve a great deal more than they have received so far.

The fact of life is that only a few years ago we were spending something like 37c per person on our mentally ill in this Territory - about half of what was being spent in New South Wales and Victoria. The ACT, as is well documented - *60 Minutes* will tell you - spends a lot more on many things than other places in Australia, but one area where we have not spent as much as other places has been mental health. That is a situation that has to be turned around. I concede that the Government has made some attempts to do just that.

We all recall the appalling cases of mistreatment of mentally ill people over the last few years. We recall the case of one mentally ill person who spent a full nine months in the Belconnen Remand Centre - a place I have spoken about many times in this place - before his case was dealt with, in totally inappropriate accommodation. His offence was riding a motorcycle without a licence. We recall the statements made by all the major parties in the 1989 election, now three-and-a-half years ago, to do something about mental health. I might say that the things I have listed already about mental health indicate very clearly that self-government in the ACT has produced some very clear improvements in this area for the people of the ACT. We have a lot of things which are very valuable under our belt in this area, and I think we should be building on those, if possible, on a bipartisan basis.

The motion which Mrs Carnell has put on the agenda here does not in any way condemn the ACT Government; it says that we believe that the Government should proceed quickly to a new mental health Bill and asks it to have a draft Bill ready for consideration within the next two months. I think that asking for that Bill to be ready more than two years after *Balancing Rights* came down is not too much to ask. It is important that we develop a response which will assist those in this Territory who are suffering from mental illness.

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We have seen a number of initiatives in the recent budget, to which Mr Berry has referred, and we welcome those initiatives. There are, of course, areas where we in the Opposition have some concern. We would like to see those addressed, no doubt in due course, by the Government. It is welcome, for example, to see the \$177,000 which has been allocated for the establishment of a Mental Health Tribunal. That is a very important initiative which we should see in place as soon as possible. I have to say that I have a few doubts about whether that \$177,000 is sufficient to establish the full mechanisms of that tribunal. Members will recall the debate in this Assembly about the money that was put aside in the first Follett Government's budget for the 24-hour crisis service, which ended up being about half of what was ultimately to be spent and is being spent today by the Follett Government on maintaining that mental health service. So, Madam Speaker, there is a real question about that, and I hope that in due course we will hear some explanation from the Government as to what is going on and how it is going to be funded.

The first recommendation of *Balancing Rights* I think I need to quote. It said:

General and administrative objectives, providing for appropriate care, treatment, rehabilitation and protection in the least restrictive environment for people who are mentally dysfunctional, be drafted for inclusion in the ACT mental health legislation.

I think, Madam Speaker, that that remains the first priority of *Balancing Rights*, and it should be the first priority of any government which is concerned about this matter. I am going to sit down now and let the Attorney-General say something about what is going to happen. I do hope, Madam Speaker, that he can give us some direct and clear information about when the Government is going to be able to present this legislation, which ought to have been on the table before now. Perhaps he even could say that our Government should have produced it. Whatever the case, it is not good enough for us to bicker across this chamber about who is responsible and who is not responsible.

Mr Berry: Well, who started it?

MR HUMPHRIES: No, Madam Speaker. The Minister is obsessed with confrontation; "You are right" and "We are right"; you know, pointing the finger.

Mr Berry: No, we are right.

MR HUMPHRIES: Well, the Minister can say that. The fact is that the people in this Territory who need legislation like that have been waiting for a long time. You are in government. It is up to you to produce the legislation, and it is about time it happened.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.21): Mr Humphries took great exception to Mr Berry's remark that there was a bit of politics being played here. What the Government's concern is here is that the Liberal Party has taken our announcements in the budget context, our announcements for a Mental Health Tribunal, our announcements that we are progressing the law in this area, and has whacked in a resolution saying, "You have to do it within two months". The press release, I can see, is on the way, headed "Liberals force Government move on mental health", when we do bring down our Mental Health Tribunal exposure draft.

Mrs Carnell: My notice was in before the budget.

MR CONNOLLY: I can see Mrs Carnell with her little press release saying, "Look what I have achieved". The Government is governing, getting on with the job, producing its reforms, announcing them, and then the Liberal Party think there are going to be a few political points to be taken by this sort of resolution.

Mr Humphries: Well, when are we going to see them, Terry? We have been waiting for two years.

MR CONNOLLY: So, to that extent Mr Berry's comment about playing politics is absolutely right. Mr Humphries, getting aside from his agitation on that, then went on to make some remarks that I would agree with. Particularly, I would agree with the remark that in the three years since self-government we have advanced this area of law and medicine in this Territory far more than had been achieved in the decade before self-government.

In relation to demonstrating that, I think the best document was the ACT Government's response to the Burdekin inquiry. This has been released, certainly, to the media. I cannot recall whether we released it to members, but we could make a copy available for the Opposition. It is a document on the public record. In relation to that national inquiry into mental health, the ACT Government's position was a very frank one. We did not seek to justify the status quo. We said that pre-self-government attention at the Commonwealth level to mental health in this Territory had not been what it should be; that our level of spending, as Mr Humphries remarked, was historically very low and that services were not in place. We then listed what had been done since self-government, and the list is impressive.

There was a slight contradiction in that Mr Humphries claimed credit for what the Alliance had done. At the top of his list was the 24-hour crisis service, and then at the end he made reference to the funding provision for that in the Follett Government's first budget. He says that he did it, but he acknowledges that it was in Ms Follett's first budget. I think the fairest thing we can say is that successive governments have demonstrated a commitment to reform in this area. We had a long way to catch up to get to a situation where we were approaching the level of law and medical services prevalent in the benchmark States in Australia.

In the 16 months that we have been in government a lot has been achieved. The Guardianship and Management of Property Tribunal and the Community Advocate are significant reforms which have brought the position of people with mental illness, or an intellectual disability - we must always be careful not to blur what is a very real distinction there - far in advance of the position that they were in prior to that. Again, there is our discrimination legislation, focusing on persons with a disability - something which the Commonwealth Parliament has only just got around to legislating on this year. We, at the forefront again, are focusing attention on discrimination against people with disabilities. So, our legislative record to date is significant. Three landmark pieces of legislation already have been enacted.

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More should be done. Of course more should be done, and we have indicated that more will be done. The Mental Health Tribunal is clearly a significant milestone. Mr Humphries acknowledged that that would be a step forward. This is the first year of costing, and the long-term costing, when it gets into full financial years, is something that governments will address in successive budgets. The fact is that this Government, in its budget this year, has set aside the funding for the first year of that tribunal. That is a clear commitment that we are advancing the law in that area.

Our expectation is that we will be in a position to expose draft legislation to this Assembly. That is the way I think this matter should progress. Obviously, reform in the area of mental health is reform of real significance and social concern. It is the sort of legislation that needs to be fully debated. Our proposal is to do what we have done with other sensitive and significant pieces of legislation, like the adoption legislation; that is, bring in a draft Bill, put it on the table in this place, and then let the Assembly either debate it through a committee, if it wants to, or debate it when the Government has had the opportunity to get back the community input and present a final and refined version.

The Mental Health Tribunal will make significant progress in addressing the rights of persons with mental illness in this Territory. The problem in the past has been, as was referred to by Mr Humphries, the treadmill that people get on between the health system and the legal system. For too long in this Territory, as we acknowledged in our Government response to the Burdekin inquiry, a public document, people have been on that treadmill. They have been unable to be dealt with properly by the mental health system. They come into the criminal justice system and their case is progressed with the sort of mechanical certainty that the criminal justice system can sometimes have, where they go from charge to committal to trial to gaol. At no point have we had appropriate mechanisms in this Territory to ensure that a person who is clearly suffering from either mental illness or an intellectual disability is diverted from the criminal justice system and dealt with in the health system. Once an offence has been committed or once an act has occurred which is treated by the law as an offence, you are on that treadmill.

Although that legislation is not yet in place, we do look forward to tabling an exposure draft of that in this Assembly. I look forward to doing that by the end of this year; so we will probably make Mrs Carnell's deadline, although we are not doing that because of any deadline that Mrs Carnell chooses to set in order to put out a media release saying that Mrs Carnell is forcing the pace here. We are doing it because we announced in the budget that we were doing it, and we have set our officials a task of getting that legislation prepared.

Although that is not yet in place, we do have, through the Office of the Community Advocate, some mechanism now where there is an office that can take up the interests of persons suffering from either mental illness or an intellectual disability and try to achieve that diversion. It is not occurring through a concrete set of legislative guidelines, but it is occurring at the moment through the good offices of the Office of Community Advocate. Ms McGregor is taking up some cases of individuals who are coming before the courts, even now, charged with offences, and bringing to the court's attention and the attention of

the Director of Public Prosecutions factors which should lead, perhaps, to a prosecutorial discretion not to proceed or to the sentencing judge or magistrate dealing with the person other than through the ordinary imposition of a sentence of imprisonment. So, we are starting the move in that direction.

We have also indicated that we are looking at the Crimes Act in conjunction with the establishment of the Mental Health Tribunal - they have to go together - to tidy up and modernise the law in this Territory in relation to mentally ill and intellectually disabled offenders. Again, it is a focus on alternative methods of dealing with these people, to divert them from the criminal justice system's inevitable term of imprisonment back into the health system. This is something which has had to be done in close cooperation with my colleague Mr Berry, and our two agencies have been working very closely in that direction.

Mr Humphries, in his opening remarks, made some reference to me praising the Alliance Government. I think that what he had in mind was some interviews that we did earlier this year where I made the point that I made at the outset here; that over the three years since self-government more progress has been made in this area than had been made in decades before. We acknowledge in that respect that there has been slow and steady progress. That point was made by us in our public submission to the Burdekin inquiry. Some of the work that was started under Mr Humphries's administration was positive; certainly *Balancing Rights*, as we have acknowledged, was a benchmark study. We have now proceeded, in the 16 months that we have been in office, to get in place - - -

MADAM SPEAKER: I am sorry to interrupt you, Mr Connolly, but it is 12.30 pm. The debate is interrupted in accordance with standing order 77, as amended by temporary order.

Sitting suspended from 12.30 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Cook and Lyons Primary Schools

MR KAINE: Madam Speaker, through you, I direct a question to the Minister for Education. Minister, with the wisdom of hindsight, would you now concede that the Government's policy of reopening Cook and Lyons schools was wrong, noting specifically that, while student numbers remain even now unsustainably low, at only 223 at both schools, the costs incurred were well in excess of the \$600,000 you estimated?

MR WOOD: If Mr Kaine were to go to Cook school, as I did recently, and see the programs that are operating there, I think he would join me in saying that it has been a great success to reopen those schools. I have not been to Lyons school during class time, although I have been there for the evening activities that schools traditionally run. My comment about Lyons school is the same - that the level of student, teacher and parental involvement and enthusiasm is extraordinarily high. As far as I can see, both schools are operating extremely well.

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As to costs, I do not have the precise figures with me. It was a matter for some debate between me and the Chief Minister about a year ago. I recall some questions from this side of the house of the former Alliance Government about the cost, and there were arguments about what figures meant what. I will find out what the precise costs have been, if you wish; but that money has been very well spent.

MR KAINE: I ask a supplementary question. I would appreciate it if the Minister could come back and tell us what the actual costs were.

Travelodge Site Redevelopment

MR LAMONT: My question is directed to the Minister for the Environment, Land and Planning. Can the Minister advise the Assembly of the current status of a proposal to redevelop the former Travelodge situated on the corner of Northbourne Avenue and Cooyong Street?

Mr Moore: If it had not been for me, it would be office blocks.

MR WOOD: That has a history going back some time. A proposal was made in 1990, I think, to redevelop that site into office blocks. Indeed, I think Mr Moore was the only objector to that proposal. Whether it was economic circumstances or the strength of his objections - which I think he withdrew in the end, but maybe under some sort of understanding or agreement - the proposal has been changed. The motel is to be demolished - seven storeys of it - and an eight-storey building is to be constructed - almost entirely serviced apartments, with some office accommodation at the lower levels. Certainly, it is in keeping with what we see for the Civic area, that is, a higher density of population around Civic, more people near Civic, living and working and participating in activities in Civic. This is a very good proposal in that respect.

Road Signs - Removal of Graffiti

MR HUMPHRIES: My question is to the Minister for Urban Services and refers to the continued failure of the ACT Government to remove graffiti from road signs on major roads into and in Canberra. I ask: When will the Government clean graffiti off, or even replace, road signs on major roads in Canberra so that tourists to the city are no longer confronted with offensive and disfiguring graffiti? Why has the Government still not taken any action, given a previous commitment that action would be taken to remove graffiti, particularly from road signs?

MR CONNOLLY: This is one the Government obviously cannot win on. So long as irresponsible young persons choose to put graffiti on road signs, Mr Humphries will beat the can and say, "The Government has failed to remove the graffiti. Shock, horror!". When we had an MPI on this matter some weeks ago, I made the point that the Government does have a program of cleaning up road signs around the Territory, but we focus first on those where there is a safety aspect. It would be prohibitively expensive for us to give a pledge that we would continually remove every piece of graffiti every next day.

We have to attack the problem of graffiti as an overall problem. We have made the point repeatedly that parents must take some responsibility here. Kids that are graffiti-ing road signs presumably are coming home with paint on their clothes or their hands. It would be helpful if parents asked some questions. We do not want to go as far as Mr Cornwell, who would sue the parents for the damage done by the kids and throw the parents out of the home - make people bankrupt for the activity of their children. We need to take an overall community approach to this. Like every city in Australia, we have a problem with graffiti. We are addressing that problem through our ongoing maintenance program. If Mr Humphries thinks that any government could give a promise to have every piece of graffiti removed the day after it was put there, he is living in fantasy land.

Child Health Clinics

MR MOORE: My question is addressed to the Minister for Health. Can the Minister assure the Assembly that community health clinics providing services to new mothers, babies and young children will remain open over the Christmas school holiday period?

MR BERRY: I thank Mr Moore for the question. I can say to Mr Moore that, historically, in that December-January period the 38 child health clinics are not fully utilised and many staff take some leave during that time. I would expect managers to ensure that they take most advantage of that period to make any savings that might be available. There will be clinics open over the period. The Community Nursing Service closes some clinics and selects the most appropriate and accessible clinics to remain open. They undergo a process in the lead-up to that period for determining the extent of closure, and that is currently under way.

The December-January clinic hours, I am informed, are advertised in the *Canberra Times* and displayed in child health clinics in advance of the proposed closures. In addition to child health clinics, parents can utilise services available through community medical practitioners at health centres. I can guarantee that there will be child health clinics open; but not all of them will be open in the quiet period over Christmas, because of the reasons I have given you.

MR MOORE: I ask a supplementary question. Can you give an indication of how many of the 38, I think you said, are going to close?

MR BERRY: I am advised that 38 is the full number. I do not have any advice in relation to the ones that will remain open over the various stages of Christmas.

Mr Moore: What sort of percentage, then?

MR BERRY: As I told you, the process of examining the extent of the closure is currently under way. If you like, when we get to a position where we know what it is, we can tell you.

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Health Services Consultant

MRS CARNELL: My question is to the Minister for Health. In answer to my question with regard to Ms Annie Austin, you informed the Assembly that she was employed as a consultant. Under what provisions of the Public Service Act was she appointed to the General Manager (Corporate) position, and what process was entered into when filling this SES position?

MR BERRY: Do you want the names and addresses of the people that were involved?

Mrs Carnell: No, just the process.

MR BERRY: This goes to the detail of the issue. I do not keep track of every appointment and discharge of every member in my portfolio. Mr Humphries did not even know how much money he was spending. At least we are on top of that side of it. I am not going to pretend that I know the names and addresses and all the details of all my employees. I can give a further report at a later date on the details Mrs Carnell has asked for. As resources are available to examine the issue and provide an answer to the question, I will provide it to the Assembly.

MRS CARNELL: I ask a supplementary question. Possibly this is a better way to approach it. Section 33AA of the Public Service Act states that all vacancies in the SES must be gazetted and that all positions should be subject to open competition. Can the Minister assure the Assembly that this provision of the Act has been complied with?

MR BERRY: I have told Mrs Carnell - - -

Mr Kaine: Just the fact that you could not answer the first one does not mean that you cannot answer the second one.

MR BERRY: Do not be so tetchy, Trev. The issue that has been raised is about an individual member of the public service, which has been pursued by Mrs Carnell for some days now, for some unknown reason. I will examine the circumstances she raises in the course of her question and report further. I do not keep the details of the appointment and the travellings of individual members of the service. In my portfolio area, there are thousands of them; I do not know their names and addresses. Mrs Carnell might be able to claim to know even their star signs. She is very zealous on these issues, particularly when it comes to personalities.

Children's Evidence

MRS GRASSBY: My question is to the Attorney-General. I refer him to the recently released report by the Australian Law Reform Commission on children's evidence. Can the Minister inform the Assembly on the report's references to the giving of children's evidence in the ACT?

MR CONNOLLY: Yesterday the Australian Law Reform Commission released a major research paper which was a survey of the experiment that has been running in the ACT since self-government in relation to the use of video evidence of children in the ACT Magistrates Court. For some years now, evidence has

been taken by closed-circuit television so that children, particularly young survivors of sexual assault, can give evidence before a magistrate and be subject to cross-examination without having to confront defence counsel across the bar table and without being in the same room as and in the presence of the accused perpetrator.

The Law Reform Commission has reported that this system has worked extraordinarily well; that the quality of evidence children have been able to give utilising this technology has been better than that of children not able to utilise this technology; and that the level of stress children have experienced in giving evidence under this technology has been considerably less than in an equivalent sample group of children giving evidence in New South Wales without the benefit of this technology. I am delighted to indicate that the Government intends to make this a permanent feature of the legal system in this Territory. I have instructed my department to examine whether this could be taken further, so that adult survivors of sexual assault in particular could be spared the trauma of having to confront the accused perpetrator in the courtroom. I expect that we will be able to bring some proposals before this Assembly next year.

Private Rainwater Tanks

MR WESTENDE: My question without notice is addressed to the Minister for Urban Services. Having regard to the renewed efforts by ACTEW to educate consumers to conserve water, it is my understanding that private rainwater tanks are legal. Is this true? If so, what steps are being taken to advise the Canberra public accordingly? Is there a standard for those tanks, so that they can be properly installed in accordance with the appropriate standard?

MR CONNOLLY: While private rainwater tanks have never been illegal as such in the ACT, the system has conspired to make the use of them rather difficult. It has been necessary to go through a series of bureaucratic hoops in order to get approval for a private rainwater tank. The legislation passed by this Assembly some months ago, providing that minor building works are no longer to be subject to the building approval system, will considerably ease up access to private rainwater tanks. It will mean that someone who wishes to install a private rainwater tank will not have to get the various permits and approvals from Building Control, which in many cases could add up to some hundreds of dollars of bureaucratic permits and may even exceed the cost of the rainwater tank.

It will still be necessary to obtain design and siting approval from Mr Wood's department; but, given that these tanks could be quite ugly if they were placed in the front of a house or, worse still, directly opposite somebody else's front window, that seems a sensible level of requirement for regulation. The design and siting rules have requirements that the tank not exceed 17,000 litres in capacity and that the tank be not more than 2.4 metres above the ground - again for safety reasons. There remains an ACTEW requirement that the rainwater tank

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connection into the house not be cross-connected with the ACTEW mains supply water. That is essentially because we have quite high water pressures in Canberra and to cross-connect could result in unpleasant spouting coming out the top of the rainwater tank as the mains pressure water surges back through.

In essence, Mr Westende, the Government is mindful of the concerns you have expressed - the community view that conservation is sensible - and we are taking steps to ensure that it is easier for those Canberrans who wish to take advantage of our high quality and high quantity rainwater to install a tank.

Casino Premium

MS SZUTY: Madam Speaker, my question without notice is to the Chief Minister. The Chief Minister has recently received a cheque for \$19m from the operators of the Canberra casino. Can the Chief Minister inform the Assembly of the timeframe the Government is considering for the allocation of money from this premium, and what mechanisms will be used for determining which projects are eligible to receive funds?

MS FOLLETT: I thank Ms Szuty for the question and I am very pleased to respond to it. The Government has received the \$19m premium from the casino developers. In keeping with long held policy, that premium will be applied to community facilities in the ACT, specifically cultural and heritage facilities. The timetable the Government has is to announce the decision on how the money will be spent by 1 December of this year. As far as I am aware, that timetable is still current and will be adhered to. In putting proposals to the Government on what might be suitable projects to apply that \$19m to, I am looking to my colleague Mr Wood, the Minister for the Arts, who is responsible for cultural and heritage matters and who is facilitating a great deal of the work.

If I could just quickly run through the process, in January of this year - I think on 30 January - I did notify in a *Special Gazette* the arrangements for the provision of facilities to be funded from that \$19m casino premium. That *Gazette* also set out the 1 December date for the final decision. The consultation has been ongoing since that time, I think, if not before that time. Members will remember that a select committee of the last Assembly undertook a very comprehensive review of cultural facilities in the ACT and formed some quite strong views on where the gaps were and what was still required. In addition, Mr Wood has had some comment from the ACT Cultural Council and is seeking further comment from them, I believe. The Cultural Council is a large advisory body which is very representative of the cultural and heritage communities in the ACT and, I think, is very well placed to provide a pretty comprehensive view of how that money might best be spent. There have also been consultations with representatives of the Aboriginal community in the ACT.

I hope that that has been helpful to Ms Szuty. I would be more than happy to receive, by way of letter or suggestion in any form, people's views on how that money should be applied, but bearing in mind that the Government does have a stated policy and a commitment to spend the money on cultural and heritage facilities.

Toilet Blocks and Change Room Facilities

MR CORNWELL: My question is to the Minister for Sport. I hope that I get a better answer than he gave to the last question from this side.

Mr Berry: Only if you ask a better question.

MR CORNWELL: All right, I will. I refer to an article and a photograph in the *Canberra Times* last week featuring a toilet block at the Googong Dam which was built at a cost of approximately \$110,000. I ask: How could a building in an isolated area such as the Googong Dam be built for that relatively small sum of money when your department quotes \$300,000 to \$350,000 to build change room facilities at suburban ovals?

Mr Wood: It is a single thunderbox; it is a one-holer.

MR BERRY: As I said, you get a good answer if you ask a good question.

Mr Cornwell: I am waiting.

MR BERRY: It is an easy one to answer, but it would have to be one of the silliest. I have never used that particular facility, but I do know that the standards for facilities which go on suburban ovals are very high, and it has been explained in this place before why that is so. They get a high level of use, I am informed, and I think - - -

Ms Follett: Hot water.

MR BERRY: All sorts of things - showers, change room facilities, sewerage lines, a kiosk - are built into the suburban oval facility. It is quite different from what somebody here described as a single thunderbox. Undoubtedly, that facility does not match up to that which is provided at suburban ovals, and I think even you would understand that that is probably the reason why there is a different cost.

If you want cheap thunderboxes on each of the suburban ovals, you can do it. I am not going to do it, because there would not be much applause for that. It is a ridiculous suggestion that we go to that sort of facility at suburban ovals, where the usage levels are so high. That is a silly question - - -

Mr Wood: A good answer, though.

MR BERRY: A good answer; but it is a silly comparison. How can you compare a facility which is designed for much lower usage with the sort of high-use facility you provide at a suburban oval, where hundreds upon hundreds of people stream through?

Hospice

MS ELLIS: I have a very good question and it will be very relevant to a number of people in this community. My question is directed to the Minister for Health and I ask: Where will the new ACT Government - where will the ACT Government establish the new hospice?

MR BERRY: That was correct. It is a new ACT Government with some new promises, which we intend to deliver. The Government promised to construct a hospice on the Acton Peninsula site. Those funds were announced in the 1992-93 new capital works program. Last Monday the Cabinet decided that the hospice would be constructed on the Acton site, in accordance with our promise to the community. Cabinet also agreed that the master development control plan for Acton should include provision for convalescent and rehabilitation and aged care services and the QEII home for mothers and babies.

This decision was announced in August last year. We have gone to the implementation phase of a promise we announced before the last election. I did not hear too many complaints about it from the Liberals opposite in the election campaign.

Mrs Carnell: Yes, you did; heaps. Do you want me to table the press releases?

MR BERRY: Not everybody runs your press releases, Kate. A lot of them end up on the spike. It is an important election promise which has the support of the ACT community. We were elected on the basis of it. We are very proud to be in a position to be able to implement that promise. We will spend approximately \$3m on the project, which will create sorely needed jobs in the ACT. It is something we are proud of and something we will be proud of for many years into the future.

Electoral Legislation - Publication

MR DE DOMENICO: Madam Speaker, my question without notice is to the Chief Minister. I refer to an article in the *Canberra Times* on Wednesday, 14 October, which published details of the Electoral Bill, saying that it had been "obtained by the *Canberra Times*". I ask the Chief Minister: Have any investigations taken place into the source of the leak of this document? Given the paranoia that exists in the executive wing of the Government, has the Chief Minister instructed her officials to proceed with an investigation under section 10 of the Crimes (Offences Against the Government) Act? If not, why not?

MS FOLLETT: I think the answer to all of Mr De Domenico's questions is no. What he fails to appreciate is that we were dealing there with a decision already made by the Government, a finished piece of work about to be introduced into this Assembly. That is a very different matter from material on which the Government wishes to base a decision or to hear argument one way or the other. So, the answer to all of his questions is no.

MR DE DOMENICO: I ask a supplementary question, Madam Speaker. Why is no investigation being sought under the Crimes Act when an investigation was sought into a leaked budget document that related to the health portfolio which proved to be wrong? Could it be that this leak was sanctioned by the Government?

MS FOLLETT: Madam Speaker, I have answered the question, I believe. I can conclude only that Mr De Domenico in some way is trying to incite me to have an investigation of some sort. He so enormously enjoyed the other one that he wants to do it all again. I am afraid that on this occasion he is not going to get his way.

Lower Molonglo Water Quality Control Centre

MR LAMONT: My question is directed to the Minister for Urban Services. Can the Minister inform the Assembly of the strategy for the future of the Lower Molonglo water treatment plant?

MR CONNOLLY: There was some concern because over the weekend we again had an incident where there was a bypass, which means that non-fully-treated effluent flowed from the treatment plant into the Molonglo. We again have a situation today where Mr Alby Schultz, a conservative member from up the creek, has been issuing inflammatory press releases, engaging in Canberra bashing and attacking Canberra for, he says, causing the phosphate build-up in the Burrinjuck Dam and causing algal blooms. The fact is that he is scientifically wrong because the level of phosphate that comes out, even with a bypass, is very low. The Murray-Darling Basin Commission has acknowledged that the level of phosphate that goes from the ACT, even though we are the largest population centre on the river, is negligible compared to the levels of phosphate caused by farmers putting super on their crops and it flowing into the river.

Rather than merely trading blows with Mr Schultz, which seems to have been the case for some years, this Government has gone about remedying the situation at the Lower Molonglo treatment plant. It has been occurring every year since the plant opened, in winter, in periods of very heavy rainfall. Because of a number of cross-connections in the old Canberra region, you get an enormous surge of water coming down the sewage treatment plant and that results in some non-tertiary-treated effluent going into the river.

Mr Humphries: Who started that work?

MR CONNOLLY: Who started that work? We started that work, Mr Humphries, because we commissioned a major survey earlier this year. Thank you, Mr Humphries, for allowing us to make that point. That reported in May of this year and I provided every member with a briefing on that and the documentary material. That shows a commitment of ACTEW to spend some \$6m on a bypass dam, which will be built near the treatment plant.

In the event of future bypasses, and they will continue to occur, up to 100 megalitres of water will be collected in the dam and will then be treated as the plant comes back on stream with additional capacity. Over the few days of heavy rain early this week, a total of some 80 megalitres of non-tertiary-treated material flowed into the river. That will not happen again. This Labor Government has gone ahead and achieved results. Currently, there is an environmental impact assessment going on - as members would appreciate, that must occur with that type of major engineering work - but the expectation is that the engineering work could be completed by the end of next year, so that by winter 1994 these bypasses will be a thing of the past.

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

Cook and Lyons Primary Schools

MR WOOD: Madam Speaker, in the time since Mr Kaine asked me a question about the cost of reopening Cook and Lyons schools, I have had confirmation of the figure I had in my mind at that stage. I preferred to wait, since it was over a year ago, to be sure of that figure. The budget in 1991-92 provided for \$657,000 for the reopening, with the cost in 1992-93 and beyond at \$532,000. I well remember this because this decision was taken in the first week or two of my term as a Minister. I remember the toing-and-froing that went on. I am sure that the Chief Minister will recall that my first approach was by way of letter, when I sought an amount closer to \$900,000 for that work. The Chief Minister was not very amenable to that and, in taking the matter back to the department, it became apparent that it was something of an ambit claim I carried on their behalf and that they were looking to get it - - -

Mr Kaine: You learn very quickly not to do it again.

MR WOOD: Indeed, and it made me a much more questioning Minister. I think the department would now concede quite freely that they had built into that an element of trying to catch up on maintenance they wanted to claim as the responsibility of six months' closure, when that could not be sustained.

PAPERS

MR BERRY (Deputy Chief Minister): For the information of members, I present the following papers:

Statement of Corporate Intent, 1 January 1992 to 30 June 1994, pursuant to section 19 of the Territory Owned Corporations Act 1990;

Building and Construction Industry Long Service Leave Board Annual Report 1991-92, pursuant to section 93 of the Audit Act 1989, including the financial statements and the Auditor-General's report;

Attorney-General's Department and the Housing and Community Services Bureau Annual Report 1991-92, including the financial statements and Auditor-General's reports, together with annual reports for 1991-92 on and from:

Administration of the Credit Act 1985
Administration of the Sale of Motor Vehicles Act 1977
Children's Services Council
Community Law Reform Committee
Guardianship and Management of Property Tribunal

Office of the Community Advocate
Operations of the Freedom of Information Act 1989
Parole Board of the Australian Capital Territory;

Office of the Public Trustee - Annual Report 1991-92, including the financial statements and the Auditor-General's report.

I think that should answer just about all their questions.

LAND (PLANNING AND ENVIRONMENT) ACT LEASES Papers

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning): Madam Speaker, I present the - - -

Mr Kaine: Give us some leases, Bill.

MR WOOD: That is what you are about to get. Under the terms of the Land (Planning and Environment) Act 1991, I table leases as per the circulated list.

The list read as follows:

Land (Planning and Environment) Act - Leases, together with executive statements -

Melba -
section 70, block 1.
section 71, blocks 1 to 12, inclusive.
section 72, blocks 1 to 16, inclusive.
section 73, blocks 1 to 3, inclusive.
section 78, blocks 1 and 10 to 19, inclusive.

MR WOOD: I might suggest to members that they come back to me in a week or two and indicate whether this is really necessary. There is a great amount of work involved. It is the result of an amendment written into that legislation last year, and I suggest that perhaps it is not necessary.

TOURISM Ministerial Statement

MS FOLLETT (Chief Minister and Treasurer) (3.05): Madam Speaker, I seek leave of the Assembly to make a ministerial statement on achievements in tourism.

Leave granted.

MS FOLLETT: I thank members. Madam Speaker, I am very pleased to take this opportunity to bring members up to date on a number of recent developments affecting the Canberra region tourism industry and its effects on our economy. Members will recall that when I made my last statement on this subject, which was exactly a year ago, I had just returned from the National Tourism Awards in

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Brisbane, where I invited the industry to hold its conference and awards ceremony in Canberra. Last Friday night the National Tourism Awards were held in our city and I am pleased to report to members that Canberra did a magnificent job in hosting the 1992 awards. I was very pleased to see other members at those awards. All comment of which I am aware supports the view that the awards in Canberra were the best national awards that have ever been staged. This is testament to the maturing of our industry and recognition of its ability to compete more than favourably with any other city in Australia.

Members will be as pleased as I am, I am quite sure, with the ACT region's performance. I am sure you will join me in offering congratulations to our winners, who included the Hyatt Hotel, the Bungendore Wood Works, Floriade and the ACT Institute of TAFE, which is about to become the Canberra Institute of Technology. The recognition accorded to the School of Tourism and Hospitality at the TAFE strikes a positive note in its bid to establish an international hotel management school in Canberra. This is a very exciting proposal which we all hope will put Canberra in the forefront of hotel management training. The 1992 Awards Ball was an excellent opportunity for the nation to see a display of Canberra talent. The Canberra City Band and the Meryl Tankard Dancers drew very favourable comment from guests. The fact that the ACT performed twice as well in the awards as it did in 1991 is a further reflection of the growing maturity in our region's tourism industry.

If we needed further evidence of this, we have only to look at the performance of the industry in terms of occupancy levels and visitor numbers. Members will recall that the ACT enjoyed a 12 percentage points increase in its occupancy levels for the June quarter, while the national increase was less than one percentage point. Although the third quarter will be less spectacular because it represents our traditionally low period of winter, I am advised that we can expect the fourth quarter to show a major increase in all indicators. Improving profitability can be expected to encourage the industry to provide significantly more jobs for our young people. The Tourism Commission, Madam Speaker, has indicated to me that it expects employment in the industry to grow by about 700 jobs in 1992-93.

Madam Speaker, I am pleased to be able to inform members that a preliminary study has now been completed on the October long weekend, which saw the dedication of the Vietnam Veterans Memorial coincide with an excellent Floriade. Our predictions were that the weekend would be worth about \$3m or \$4m to our economy. The preliminary survey indicates that we have been extremely conservative in our prediction, with the actual figure looking more like \$9.5m. We have, indeed, much to look forward to over the next 12 months. Members will be aware that the Canberra Casino will commence making its contribution to our economy on 14 November. This should provide a useful boost to the tourism industry and to youth employment. It will also make it easier to market Canberra as a convention destination.

The events unit which the Government funded in this year's budget is already showing some good results. Amongst the events being supported by the events unit are the Pacific Power Commonwealth Bank Cycle Classic, the inaugural Canberra Fishing Festival of 1993, the Australian Long Track Motor Cycle Speedway Championship, the 1992 Esanda Rally of Canberra, the World Cup Showjumping, the Coca-Cola Youth World Cup Soccer Tournament, the ACT Women's Golf Championship, the Capital Cup International Women's Soccer Tournament, the Kanga Cup International Youth Soccer Series, and the National Folk Festival.

I am pleased to report to members that the restructuring of the ACT Tourism Commission is now almost completed, and that we now have in place a vibrant and aggressive marketing organisation which can be expected to compete effectively with the other States and Territories. Madam Speaker, I cannot speak too highly of the cooperative relations that are now a feature of our industry. Both private and public sectors are working closely together for the good of all. The establishment of a Canberra region chapter of the Australian Tourism Industry Association has proved valuable in bringing the industry together.

Recently, Madam Speaker, I presided at an event in Sydney which was aimed at telling inbound tourism operators that the domestic airlines have now dropped the penalty formerly imposed on overseas visitors overnighing in Canberra. Already we can see more overseas visitors amongst the crowds at events such as Floriade. This is a good sign for the future. I can report to members that the commission is concentrating heavily on the inbound tourism industry to maximise Canberra's share of the projected 11 per cent per annum increase in international arrivals. Members will also be aware that my Government is a strong supporter of Sydney's bid for the Olympic Games in the year 2000. We believe that by supporting Sydney their bid will be much enhanced. The spin-offs to Canberra and the region from a successful bid by Sydney would be enormous, with the possibility of some events being staged in the excellent sporting facilities Canberra enjoys.

Before I finish, Madam Speaker, it is my very great pleasure to announce that ACT Tourism has won another award. This time it is for the best stand at the Queensland Holiday Travel Show held in Brisbane last weekend. The award is made by *Travel Week Magazine* and is based on the quality of presentation, the product display and the professional approach by staff. I am sure all members will join me in extending congratulations to Kylie Anderson from the Tourism Commission, who managed the ACT contribution to the show. Madam Speaker, I mentioned in my statement to the house last year that we had every reason to be optimistic about ACT tourism. This has proved to be quite true. This year, Madam Speaker, I believe that we have even more reason for optimism.

I present the following paper:

Tourism - Achievements - Ministerial statement, 21 October 1992.

I move:

That the Assembly takes note of the paper.

Debate (on motion by **Mr De Domenico**) adjourned.

INDUSTRIAL RELATIONS
Discussion of Matter of Public Importance

MADAM SPEAKER: I have received letters from Mrs Carnell, Mr Cornwell, Mr De Domenico, Mr Humphries, Mr Kaine and Mr Westende proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, I have determined that the matter proposed by Mr Kaine be submitted to the Assembly, namely:

The Government's failure to adopt a realistic attitude to industrial relations in the ACT.

MR KAINE (Leader of the Opposition) (3.13): Madam Speaker, I must say that I am delighted that my matter of public importance was selected from those submitted, under the rules devised by the Labor Party. I am delighted that it came out because I believe that industrial relations and labour market reform truly are matters of the greatest public importance today. Our industry in Australia is uncompetitive in world markets. Our investment in productive resources is lagging. We compare unfavourably with many other countries and regions in terms of productivity. We have the pure waste of one million people unemployed. Yet government has failed to provide leadership on this issue. It seems to be happy with the status quo established decades ago, dominated by the Commonwealth, with its awards based on obsolete national economic and business imperatives, and driven largely by the demands of the national trade unions.

At the end of the twentieth century we need a major shift in our attitude to industrial relations and workplace reforms. This is imperative at the national level and it applies also in the ACT. The labour-intensive days of the nineteenth century mines and factories, with thousands of workers who were poorly paid, poorly housed, in poor health, forced underground from the age of 10 and working out their lives in darkness, are long gone.

Mr Connolly: But they will come back if John Howard finds a way.

MR KAINE: We will come to that, Mr Connolly. The images of those dark, satanic mills, with their cauldrons illuminating cavernous factories, serviced by faceless, nameless masses drawn in from the bucolic rural life of their birth by economic necessity, and presided over by magnates luxuriating in the conspicuous wealth produced by the tragedy of exploitation, no longer applies.

Mr Berry: Who wrote that?

MR KAINE: Those, Mr Deputy Speaker, are words that these people over the road will use. Even Labor must accept that that is no longer true; that those days are long gone. Yet, Mr Deputy Speaker, the Keating and Follett governments pathetically appear to see no change. Labor ideology is tempered in those long-damped fires. Their limited vision is shackling the future of the workers that they purport to represent, and it is fettering the ability of our business to meet the complex and rapidly changing demands of this century, and the new demands for ever more rapid change in the next.

Mr Lamont: Could we get some piped music? *Wuthering Heights* would be appropriate.

MR KAINE: They hate it, do they not? The rapidity of change and the need for flexibility in industrial relations will not diminish.

Mr Connolly: No, we think it is great. More! More!

Mrs Grassby: We love it. We want the author.

MR KAINE: I would have thought they would have wanted to listen to this. This is a constructive debate.

They are part of the new technological reality. They are features of industrial life that will continue long beyond our lifetimes. Labor and the union movement must come to terms with the demands of the new age at the international level, at the national level, and even here at the micro or local level. It is no longer beneficial, Mr Deputy Speaker, nor is it acceptable, for mass labour movements or mass employer associations to impress their demands unthinkingly on the community. The unions long ago recognised that the days of the International shop floor have gone. They have moved steadily over the past 30 years into the political mainstream. The ACTU and the major unions still recruit in the factories and the business of the land, but only as a means to reinforce their power in the halls of government.

The days of the working man rising to management positions in the unions and playing a role in the broadest levels of national life ended long before the arrival on the scene of Mr Hawke and Mr Crean and Mr Kelty. It is now the bright, university-qualified men and women of the labour movement who increasingly dominate union management, and it is they who now make or influence policy in the Labor Federal Government. Power blocs and the exploitation of working men and women by Labor intellectuals must be seen for what it is. It must be changed. It is no different from, and no better than, domination by industrial capitalists. Social justice and social equity demand - - -

Mr Berry: You got that off John Hewson's office.

Mr Lamont: No, this is the Young Liberals.

MR KAINE: I would have thought that these people would have wanted to listen to some enlightened thinking, Mr Deputy Speaker. They obviously do not want to. I even use their own words.

Social justice and social equity demand that governments represent ordinary men and women, their aspirations, and their vision of community. The old stereotypes which the Labor Party represents cannot satisfy those needs. They are anachronistic, they are tired, they are unproductive, and they are out of touch. Social justice demands that men and women, in the ACT at least, are represented by their elected representatives, not dragooned by unions that represent only 35 per cent of the work force and a markedly less proportion of the population as a whole.

It is scandalous, Mr Deputy Speaker, that unions imagine that they can topple a Minister in any government for a crime no more heinous than attempting to make the public transport system more efficient, more effective and less costly to the taxpayer. It is outrageous that they as a body should threaten to stack branches of a political party to bring a Minister to heel. So much for democracy.

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Mr Connolly should agree with me entirely. Mr Deputy Speaker, the government is not, and must not be, synonymous with the trade unions. The union movement must look, as we all must, at our present and future needs, and they must make their inputs to government policy as do all other interest groups, from outside rather than from a privileged inside position.

There is no more crystal clear message that industrial relations and labour market reform is necessary in the ACT, and the nation, than that exemplified by our unemployment crisis, our failure to recover from the deep recession that we had to have, and the stagnation in new business investment. Here in the ACT 56 per cent of 15- to 19-year-olds are unemployed and 8.3 per cent of people seeking work are unable to find it. Part of the problem is that Commonwealth awards in the ACT have priced many people out of the employment market. No matter how good the economy gets in the ACT in the future, 3 to 5 per cent of people looking for work are likely to be unsuccessful, even in the long term, because there simply is not enough money in business to employ them and the Government is not going to employ them.

Across the country micro-economic reform initiatives recognise that higher labour costs dampen business investment just as much as stagnant consumption does. Where labour consumes 60 to 80 per cent of the cost of goods, profit margins must be small. Profit is the resource of investment in new businesses, new research, new products, greater productivity and greater employment. It must be seen in this light by unions and Labor governments alike, rather than being seen as something reprehensible.

In this technologically sophisticated world, labour is disadvantaged by laws that constrain business flexibility to react to new market opportunities and demands. Working men and women and their employers need to be able to adjust quickly to changing market conditions to maintain productivity, profitability and employment opportunities. In the ACT we have a private sector dominated by retailing, tourism and other service industries - small businesses that need flexibility and freedom to act locally. We are not a factory State like Victoria or New South Wales, and Commonwealth awards designed for those States are inappropriate here.

We need, Mr Deputy Speaker, a new and different approach. Interestingly - I am sure that the Government will find this interesting - the principles in the Jobsback policy announced yesterday by Mr Howard are acutely relevant to the ACT. They provide flexibility for employees and employers to enter enterprise specific agreements, making conditions relevant to individual businesses' ability to stay competitive and to maintain employment. Working hours will be freed from the artificial restraints of these Commonwealth awards. Workers will be able to enhance their family and community lives, while businesses will be able to maximise the productive value of overhead costs. Employees will have the protection of minimum wages, standards for agreements and advocacy in the negotiation of agreements and in disputes, and at the same time there will no longer be the coercion to join the union. Employees will be free to choose union membership or a workplace enterprise agreement. Contractors will be free to work as independent businesses, negotiating their own contracts without the compulsion of union representation.

Mr Deputy Speaker, these reforms will enshrine the socially just ideas of voluntary unionism, freedom of choice, equality between employee and employer, and the flexibility to meet the challenges facing individual firms. These reforms, put into practice in the ACT, will reduce business costs, increase productivity and competitiveness, and lead to higher employment. Mr Deputy Speaker, I commend them to the Government. This industrial relations reformation will support independence and self-reliance in the work force and encourage the participation of employees and employers in remaking the economy, and still with the protection of the industrial courts.

Mr Deputy Speaker, the Follett Labor Government has been content to sit idly by while the economy of the ACT stagnated, while unemployment has grown to crisis proportions and while business failures have reached historically high levels. They have done nothing to explore even the possibility of change in the industrial relations structure in the ACT. What we had yesterday and last decade and last century is good enough. They have been complacent within the Labor fold, dominated by the unions. They have abdicated from their responsibility to find a better, more effective and more productive framework for industrial development in the ACT. Yet again they have proved to be a status quo, no change government, with neither the will nor the desire to identify problems, to find new solutions relevant to our time and circumstance, and to implement them.

They have done nothing to deregulate business hours or even to match those of our smallest regional neighbours. They have done nothing to reduce regulations strangling business growth. Rather, they have increased government and union interference. They have done nothing to assist business to afford more employees. There is no minimum youth wage; there is only the environment corps and jobs for six months for a fortunate 40. They have acted to increase the spread of tax. Land tax on investment property is depressing investment growth and consequently the building industry. Industrial laws such as the Occupational Health and Safety Act and the Parental Leave Act impose costs and enshrine union interference in business activity.

Mr Lamont: Mr Howard wants them.

MR KAINÉ: Mr Lamont hates this. It is the new thinking. Open your mind, Mr Lamont.

Mr Lamont: Mr Howard told us yesterday that we were going to have them.

MR DEPUTY SPEAKER: If Mr Lamont continues to interject, he will not hear much more of it either.

MR KAINÉ: These new Acts, put into place by this Government, reflect the industrial relations reality of the 1950s and the factory, not the 1990s in the ACT with its service industry base. In short, the Government has elected to hold to the vision of the worker triumphant so expressive of the old Europe, and has failed to recognise, and has even rejected, the reality of the new industrial age where democratic values, people values, community values of justice, freedom, choice, independence and shared responsibility, are expressed in industrial democracy and participative management.

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The signs of economic distress are ever present - a million unemployed; investment diverting to other countries in the world; the rise of South Korea, Japan and Malaysia as the region's industrial leaders; the emergence of Singapore, Hong Kong and Japan as the financial centres of the region. In the ACT we must adapt to the new centres of influence, the new markets, the new methods of business and the realities of the 1990s and the twenty-first century. If we do not recognise and adapt to these needs, even the ACT, with all its protection and its public service employment - and Richard Carleton knows all about that - will not prosper; and prosper we must, Mr Deputy Speaker, if our children are to know the fulfilment that productive employment brings, if our enterprising young people are to risk their vision and succeed in new business, and if our young tradespeople are to value enterprise and quality work.

Change is needed now, Mr Deputy Speaker. This Government must not only adopt a new realistic attitude but also put it to work. Make it productive. Give the ACT and give our children a future worth having. The Follett Labor Government, for the time being, carries the responsibility for the 300,000 Canberrans. They must demonstrate new energy, new ideas, a new vision. Mr Deputy Speaker, the status quo will not do.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (3.27): Nothing has changed. The rhetoric is just as slick and the message just as blurred and just as inaccurate. What the Liberals want to do nationally, and our local Liberals are following slavishly behind them, is to drive down workers' wages throughout this country and put the excessive profits into the hands of a few. There is no question about that. But they cannot do that while the workers remain organised and are protected by the trade union movement. If they were to attempt such a course, under the current industrial framework the conciliation and arbitration powers of the Industrial Relations Commission would prevent them, just as they prevented exploitation of the Gold Coast factory where workers sought to throw away their conditions. That would have been contrary to the public interest, and the commission has so ruled, appropriately. That has been built up into a monstrous political stunt by those opposite. As I have said, they follow slavishly in the footsteps of the Federal Opposition as they attempt to move down the path of reducing wages and working conditions, driving living standards in this country down - living standards which have been built on over years and years of development in this country.

There is no doubt that in this country, in the period of the Federal Labor Government, a new relationship has been developed between employers, the Government and unions. The sort of progress that has occurred in those circumstances has never occurred before. Indeed, workplace reform has gathered pace, and it continues to grow and to assist in the development of industry in this country. If it were not for that cooperation, Mr Deputy Speaker, we would be in a dreadful position now because we inherited from the Liberals, as many of us might recall, a wages freeze - there was no prices freeze - intended to drive wages and working conditions down. We inherited a period of gross confrontation where the atmosphere of conciliation was being eroded, and had been eroded, and where the ability of the Conciliation and Arbitration Commission, as it then was, had been eroded as well by government action. Since then, of course, things have changed for the better.

Mr De Domenico: Ask the million on the dole about that.

Mrs Carnell: And wage levels have been maintained, have they, in real terms?

MR BERRY: It would be handy, Mr Deputy Speaker, if I could give this speech - - -

MR DEPUTY SPEAKER: Order!

Mr Connolly: I take a point of order, Mr Deputy Speaker. We have a constant dialogue between Mr De Domenico and Mrs Carnell across the other side while the Deputy Chief Minister is speaking. You were fairly robust in your warning to Mr Lamont. I would expect that members opposite might also listen.

MR DEPUTY SPEAKER: Yes, I am quite happy to uphold the point of order. If you wish to talk among yourselves, try to keep your voices down. I have been trying to judge the level. As soon as Mr Berry, the speaker, is drowned out, I shall certainly call whoever is interjecting to order.

MR BERRY: Let us look at the record of this Government in industrial relations. I might point to just two issues in opening on that question, Mr Deputy Speaker - the parental leave and occupational health and safety laws which were derided by those opposite but supported by the greatest conservative in industrial relations history for the Liberal Party, John Howard.

Mr Deputy Speaker, since May 1991 - this is all on the record and this demonstrates how this Government has performed - industrial disputes in the ACT have regularly decreased from the relatively high level of over 60 days lost per 1,000 employees per month, regularly seen during the days of the previous Government, to the range of 18 to 26 days lost per 1,000 employees for the past six months of this year - the lowest level of time lost through industrial disputes in Australia. How can we be criticised on that score? We cannot. Time lost per 1,000 employees in the ACT is about one-twentieth of the time lost over the border in New South Wales under a Liberal administration. In May this year 26 working days were lost per 1,000 employees, compared with 458 days lost per 1,000 employees in New South Wales. How dare the Liberals crow!

The major period of industrial disputation in the ACT over the past year was over the outcome of the report by the Priorities Review Board - much applauded by the Liberals - set up under the previous Government, which succeeded only in enraging all the previous Government's employees, forcing them into industrial confrontation. It was subsequently discarded, and rightly so. This Government believes in consultation, not confrontation, Mr Deputy Speaker, and this is reflected in the figures for time lost through industrial disputes per 1,000 employees.

Similarly, Mr Deputy Speaker, within the ACT Government Service, industrial disputes are at a record low, again, because of a policy of consultation, not confrontation, of working within the system with our employees and, when there is a problem, using the services of the Industrial Relations Commission to work things through. There is no doubt, Mr Deputy Speaker, that from time to time there is conflict in the workplace, but there is always a way of working through these sorts of conflicts using the mechanisms which are available to us. Why fix

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something that is not broken? That is what the Federal Liberals intend to do in order to try to make a cheap political point out of a process. The good thing is that they have not fooled Australian workers. Australian workers are a wake-up to what the Liberals are about. Liberals are about driving down the living standards in this country and disempowering workers in this country, to ensure that their wages and working conditions are reduced permanently.

We do not cut and slash. The scorched earth industrial relations policy, with essential services legislation, fines and sanctions, is supported by the Opposition for people who do not agree with them. They threaten to sack people who do not agree with them. We do not want a return to the Dark Ages or the 1960s and 1970s at the hands of these people who, like the Bourbons and the Sun King, have learnt nothing and forgotten nothing.

This Government consults with unions and employers through the Industrial Relations Advisory Council, which meets quarterly, the Occupational Health and Safety Council and the Workers Compensation Monitoring Committee. Groups represented on these forums include CONFACT, the Master Builders, the Chamber of Manufactures and the Canberra Business Council, as well as the trade union movement; so in the ACT in our consultative processes there is broad involvement of the business sector as well as the trade union movement and government. As a result of Labor Government initiatives through these councils, workers compensation premiums have halved and reported accidents have been reduced by 25 per cent, while employment has increased by 10 per cent and industrial disputation has been halved. Those are the facts, whether you like them or not.

Mr De Domenico: No, they are not.

MR BERRY: You do not like them, I know.

Mr De Domenico: No, you are not right.

MR BERRY: You hate them, but that is the truth. The continuing consultation in those forums has led us to a position where we can be quite proud and, indeed, optimistic about the future of industrial relations in this Territory.

Let us look at the alternative, the nineteenth century, the common law employment that the Liberals envisage a return to - the days of laissez faire; let the worker and the boss negotiate industrial agreements as if they are equal. That is the Liberals' position. The bosses will look after your wages. They will make sure that you are well paid and that you feel comfortable. They will pay for all of the conditions that you want; you will want for nothing. The result from those things was mine disasters, strikes, low wages, low productivity. It got too much even for the Law Lords in the House of Lords in Britain, who began to find ways around common law contracts because of their very unfairness. You people want to go back to the days when the squattocracy was in charge in this country. The common law courts devised artificial ways of making employers responsible for their employees through such concepts as non-delegatable duty, for safe workplaces, workers compensation and other progressive developments. These latest common law contracts aim to turn the clock back to the last century, all because of economic rationalism gone mad.

Let us look at the economic assumptions on which this is all based - equal bargaining power; equal knowledge between employer and employee, with no independent arbitrator. It is fanciful rubbish designed to promote this economic efficiency. What Trevor Kaine focuses on is profits only. He is not concerned about workers being in a position to protect their industrial rights. He wants to throw that out the window. He does not want workers to be in - - -

Mr Humphries: Profits create jobs.

MR BERRY: The Liberals' position is not very different from that of Mr Stevenson when it comes to people who are oppressed. Mr Stevenson argues that people who are oppressed ought to be able to defend themselves - leave them alone; do not interfere; let them either sink or swim. That is what Mr Stevenson argues, and these people argue the same line in industrial relations terms - sink or swim; let the strong survive and the weak go under. The real result for us is that we will end up with an average lower wage, and that is what it is all about, because the strong will survive but the weak will be pushed down. Average incomes will be forced down and living standards, particularly for those weaker sections of the industrial movement, will fall.

The ACT Government is strongly committed to an organised industrial movement that is able to protect itself and to defend its workers. It is also committed to an organised industrial movement which is prepared to participate in the sorts of programs which deliver workplace safety and opportunities which should never be passed up. I had the great pleasure the other day to announce the winner of the occupational health and safety award in the Australian Capital Territory. I must say that it was something that in my earlier working days I never thought I would see occur - where bosses were involved with the trade union movement in working together to provide occupational health and safety for their workers in a regulated environment. The only way they were ever going to do it was in a regulated environment. It needed the commitment of unions and bosses, and a government committed to pulling them together, to bring about that result.

Madam Speaker, we have seen develop in the ACT in the short period of self-government, despite the Alliance Government, a process of consultation and power sharing within the industrial workplace which has brought nothing but positives to the Australian Capital Territory. It will continue to bring positives while ever we leave behind those silly ideas about confrontation, about the Liberal philosophy of keeping workers in their place and describing it as one of equality. It certainly is not when it comes to the issue of power.

Mr De Domenico: Their place is in a job, not on a dole queue.

MR BERRY: By the sound of it, by forcing the kiddies back into the mines. That is what the Liberals are on about; they have made it clear - disempower the workers and take away their organisational ability in order that they cannot protect their wages and working conditions. In that way industrial wages and working conditions will decline, and so too will the standard of living for those working people. All that it is being pursued for, it is claimed, is to increase jobs.

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Well, no; it is about increasing profits. It is also about basically establishing the old squattocracy in a place of power again and turning back the clock 100 years. Nobody can stand by and put up with that sort of rot. Australian workers will not. Ordinary people are a wake-up to the slick rhetoric and the snake oil salesmen. They will not cop it. Thankfully, they will be sensible enough to ensure that Hewson and Howard never get anywhere near a position where they can implement those sorts of things.

MR DE DOMENICO (3.42): Madam Speaker, let us have a look at the farcical rubbish that we have heard for the past 15 minutes. Mr Berry talked about positives all the time. He talked about a lot of things. Let us have a look at the positives, Madam Speaker, and at some of the facts. There have been several disputes, even in the life of this Assembly. Let us have a look at the bus drivers strikes, the garbage strike, the crane drivers strikes, and other miscellaneous strikes from time to time.

In May, Madam Speaker, the garbage strike was described by the Minister, Mr Terry Connolly, as "the world's silliest industrial dispute". That was said not by Mr Howard or Dr Hewson, but by the right-wing Minister sitting behind Mr Berry. The *Canberra Times* reported that the ACT Minister for Urban Services, Terry Connolly, had described the strike as the world's silliest industrial dispute. What was the dispute about? Well, one does not know. It was sparked by sharp words spoken by a supervisor to an employee in the maintenance services area. All of a sudden, because of words, there was a strike. The whole of the garbage collection service in Canberra went out because someone decided to say something to one of their employees. Mr Connolly, quite rightly, I might say, said that it was the world's silliest industrial dispute.

When Mr Berry, the Industrial Relations Minister, was asked to intervene, he said, "Oh, no; don't you worry about that. Things will settle themselves. They can ring me up in the morning if they want advice", or words to that effect. But Mr Connolly, quite rightly, took some action, or attempted to take some action. Let us see a bit more about the dispute. Among those present and voting on the strike resolution were - listen to this - interstate shearers in Canberra protesting at the influx of Kiwi competition. They were not Canberrans. That is who voted to go out on a Canberra garbage dispute - interstate shearers. What do you say to that, Mr Minister?

Do you know what Mr Berry, the Industrial Relations Minister, did? He sat on his hands, flat fingered. He sat on his hands and did nothing. He hoisted it over to Mr Connolly, of course, in a different faction. What did Mr Connolly do? Quite rightly, he called it for what it was - the silliest dispute ever. That is what Mr Connolly did. When you start talking about action and positives, Mr Berry, how positive was that? It was not positive. The community was held to ransom by the trade union movement, your mates. So, do not talk to me about positives.

It is the Minister's responsibility to ensure that commonsense wins the day. The Minister and the Government have failed to bring any sense of reality into industrial relations issues in the ACT, and he knows that. The first crane drivers dispute in May cost the Territory millions of dollars and lasted four weeks, I believe. What did Mr Berry do there? He did not act to stop the dispute. Mr Berry stood up in this Assembly and in answer to a question I asked him - - -

Mr Connolly: He said that it should go to the commission, which it did, and it ruled against the company.

MR DE DOMENICO: Do you know what he said, though? Mr Berry indicated in the Assembly that prior knowledge of the dispute existed before it became a major issue. What did he do when he knew, prior to the thing becoming a major issue? He did nothing. Flat fingers again. He sat on his hands and did nothing. He gave you the responsibility, Mr Connolly. He said, "It is your baby, Mr Connolly; it is all yours, mate; you go and fix it". You tried to, I must admit, because you are a very reasonable person and a reasonable Minister, coming from a reasonable faction of your political party. They gave you the onerous task of fixing the thing. You tried to. You did not succeed, mind you; but you tried to fix it. That was Mr Berry's reaction. That was the reaction of the Industrial Relations Minister. A second crane drivers dispute is still being sorted out, I believe; it still has not been settled 100 per cent. What have you done about that? You have done nothing, Mr Minister, and you are the Industrial Relations Minister.

Let us have a look at the ACTION bus situation. Remember, Madam Speaker, that it was not so long ago that there was an ACTION bus strike over six workers who played golf on their sick day. They brought in medical certificates and demanded sick pay. The only problem was that some of their bosses were there playing golf on the same golf course and caught them out. Do you think that there were any sackings? Did Mr Berry, the Industrial Relations Minister, do anything? No. He went to Mr Connolly again and said, "Please, Terry, help us out. Mr Minister, help us out, because I do not want to do anything. I am not allowed to, because the unions will prevent me from doing any of that".

Mr Lamont: Madam Speaker, I raise a point of order. I am not too sure who it is in the public gallery that Mr De Domenico seems to be so interested in impressing, but there is a standing order which asks him to address the Chair on these matters.

MADAM SPEAKER: Mr Lamont, I am sure that Mr De Domenico is aware of that.

MR DE DOMENICO: Madam Speaker, I am delighted to look at you, as always. Thank you, Mr Lamont, for bringing it to my attention. Madam Speaker, quite obviously, the truth hurts, when Mr Lamont stands up and takes silly points of order like he did then.

To get back to the ACTION bus situation, once again Mr Connolly tried to settle the dispute. There were illegal payments, and the former Auditor-General said that. He made it loud and clear that for a number of years there had been illegal payments. What happened there? It went to the Industrial Relations Commission and the Government, behind closed doors, negotiated to have them all backdated. Then they came in here and said that we Liberals do not want to give our staff or the workers lunch-breaks and tea-breaks. Once again there was emotional claptrap, Madam Speaker.

Mr Connolly: We even offered sandwiches to your staff.

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MR DE DOMENICO: They are the sorts of comments that are coming from the Government over the other side. This is what modern industrial relations is all about - sharp little comments and trying to score political points. What happened there was that the commission retrospectively, obviously, validated the meal allowance. Once again Mr Berry talks about positives. They are the sorts of things that I think the Canberra community ought to be made aware of.

What did the Liberal Party say when all these things were happening, Madam Speaker? The Liberal Party said that there ought to be an inquiry to make sure that no other such rorts and illegal payments went on. What was the Government's reaction to that? The Government reacted as it normally does. Once again we had the flat fingers situation - sit on your hands, do nothing, say nothing and the problem will go away. What have you to lose? What has this Government to lose? Just the illegal rorts for the union mates or millions of dollars in savings and efficiencies. That is what you have to lose.

Mr Berry talked about positives. What about the illegal over-award payments made to some ACTEW employees? What did you do about that, Mr Berry? Let me tell you again.

Mr Kaine: He flicked that to Mr Connolly, too.

MR DE DOMENICO: He flicked it to Mr Connolly, the old hand pass - running on the half-forward flank, he dropped the ball and gave it to Mr Connolly. Once again, why should Mr Berry take any flak? Once again, Mr Connolly did the right thing. He came out publicly and criticised the unions. What did the unions do to Mr Connolly? They bucketed him.

Mr Connolly: Hit me, Tony. Say something nasty about me.

MR DE DOMENICO: They bucketed you, Terry. Guess what Mr Berry did while Mr Connolly was being bucketed. Did he support Mr Connolly? Not on your life. He did just what he did now. He stood up and he left. That is how united that Government is over the other side. Mr Berry stood up and left you like a shag on a rock, and you have as much chance of surviving as a one-legged frog in a snake pit, let me tell you. They will get you in the end.

The Government should be making sure that they look at what John Howard said. That is the way of the future, Mr Connolly, whether you like it or whether you do not. It is not just John Howard saying things. Let us listen to what Senator Peter Cook has to say. Senator Cook, once again, is a reasonable Labor Party politician; not a left-winger, but in the middle. Let us see what he has to say. On 6 August - quite recently - the Minister for Industrial Relations, Senator Peter Cook, announced that the Government had given the green light for negotiations to go ahead aimed at settling an agreed framework for unions for the introduction of - wait for it - workplace bargaining in the Australian Public Service.

Mr Berry has stood up here and said, "No, there will be none of that". What has Mr Berry, the Minister for Industrial Relations, done about setting in place workplace bargaining initiatives for the ACT public service? Senator Cook and Mr Keating, I believe, wrote to the Chief Minister some time ago saying, "Hey, listen, we ought to be thinking about the ACT public service". Do you

think that Mr Berry has done anything about that? The answer is no. Once again we have the flat fingers syndrome. He sits on his hands and does nothing. Whether Mr Berry and the Government like it, Madam Speaker, or whether they do not, once the Howard-Hewson Government is elected they will have to do something about it.

Mr Connolly: The Howard-Hewson Government? A bit of a change in leadership coming up?

MR DE DOMENICO: Seeing that we are talking about industrial relations, Mr Connolly - - -

Mr Kaine: We are not talking about the Follett-Mr X Government.

MR DE DOMENICO: That is right. Mr Berry will have to do something about it. If he is not going to do something about it, the Federal Government will certainly do something about it for him. That is the problem of industrial relations in this Territory, Madam Speaker. Mr Berry stands up and talks about positives, and he also talks about kiddies and things like that. If by "kiddies" he means people between the ages of 15 and 19, let me tell you another fact. In the ACT, of young people between 15 and 19 years, 56 per cent are unemployed. Australia-wide, under accord mark 1, 2, 3, 4, 5, 6 and 7, and how many others there are - you had better listen to this - there are one million people earning less on the dole than they would be earning if they were in a job.

That is what industrial relations is all about. That is what reform is all about. Sure, some of this reform is radical, and so it should be, because it has taken the Labor Government three years to catch up on what John Howard had to say three or four years ago about enterprise bargaining. It will take you another three or four years to catch up to the fact that you need radical reform, and radical reform needs guts. You have not got it. What happened to the only Minister who has any guts? He walked into a Labor Party meeting and got bucketed like a beauty. Talk about unity, Madam Speaker. What did the Industrial Relations Minister do? Did he support Mr Connolly? No, he did not. He stood up like he did today and he walked out. You are not allowed to walk out on the people of the ACT; you had better start doing something.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.52): Madam Speaker, the subject of today's MPI, industrial relations, is indeed a matter of great public importance. The debate from opposition speakers has focused on two aspects: Firstly, a litany of alleged failures on the part of this Government in managing ACT industrial relations, and, secondly, a recapping of the Federal Opposition's so-called bold, radical strategy; this enormous leap to the past that was announced yesterday by Mr Howard. Mr Howard said at the end of the day yesterday:

If you are under a workplace agreement -

which is what he wants - no unions, no awards -

and you have a deadlock about conditions, then it does become a matter of negotiation. If you can't reach agreement, well, you do go your separate ways.

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In other words, if you do not agree with the boss you are out the door. Australian workers are not silly enough to accept that.

As was said by a group of senior industry figures in this morning's *Financial Review*, on page 4, the creative use of the old system is still the best practice. A Mr Koning, the human resource manager of Air International Group, said:

The conciliation and arbitration system itself grew out of employers' attempts in the 1890s to enforce common law contracts of service and "reduce the collective abilities of the workforce".

We will go right back to that and the same lessons will be learned again. What a silly approach this Liberal Party is adopting! The thing about the Liberal Party's approach that is most striking to me is the contradiction in Dr Hewson's recent attempts to drape himself in the mantle of Alfred Deakin, that great Australian, in delivering the Deakin Lecture. He attempted to suggest that he in some ways is following on in the Deakinite tradition. Let me quote to you, Madam Speaker, what Alfred Deakin said on the introduction of the Conciliation and Arbitration Act in 1903:

No measures ever submitted to any legislature offer greater prospects of the establishment of social justice and of the removal of inequalities than those which are based upon the principle of conciliation and arbitration.

Madam Speaker, those words of Alfred Deakin are as true today as they were in 1903. In his words, no system offers greater prospects of the establishment of social justice and the removal of inequalities than an independent system of conciliation and arbitration - and you lot want to rip all that up. You want to rip up that collective work that has been built up over some 90 years and go back to the law of the jungle, go back to freedom of contract. You can negotiate with your employer; there is freedom of contract; it is a wonderful system, and all things will flow from this. But John Howard let the cat out of the bag yesterday in this quote that has been widely disseminated and that we will keep reminding you of in every forum - the national parliament, State parliaments, and out there in the hustings:

If you can't reach agreement, well, you do go your separate ways.

That is what John Howard said. It will be the sack for every worker who will not accept the reduction in wages.

Madam Speaker, this national policy, this con, as Senator Cook described it, is indeed worse than expected. Read the commentaries today. Laurie Oakes's column is headed "If it isn't broken, don't fix it". He says what a foolish policy this is, and there are enormous risks of massive industrial confrontation flowing from it. He cites again what BHP chief executive, John Prescott, said:

The fact is that there are many, many opportunities for workplace reforms in our present system.

So, we have John Prescott from BHP, and we have Laurie Ferguson, and they are all wrong.

Mr Kaine: Laurie who?

MR CONNOLLY: Laurie Oakes. They are all wrong. Johnnie Howard and Dr Hewson are the only two that are right. Dr Hewson is right and 16 million Australians are wrong.

Mr De Domenico: And the Chamber of Commerce.

Mrs Carnell: And the Chamber of Manufactures.

MADAM SPEAKER: Order! Members of the Opposition will desist from interjecting.

MR CONNOLLY: Madam Speaker, I doubt whether the Australian community will fall for this nonsense, but time will show and this debate will continue. This attempt to ape the national industrial policy of the Federal Government needs no more attention from me; it was well demolished by Mr Berry.

Let us look at what we are doing within the ACT. What we are doing within the ACT, Madam Speaker, is utilising the Federal industrial relations system, utilising the mechanisms of the Industrial Relations Commission, to resolve industrial disputes as they occur. Our rate of industrial disputation, as Mr Berry indicated, is extraordinarily low, and falling. It is the envy of the rest of Australia. Mr De Domenico railed about a few instances of industrial dispute. We had the tip dispute where I certainly said that I thought that what they were on about was inappropriate. That matter lasted only a day or so. We had the Canberra Cranes dispute, where Mr De Domenico was jumping up and down saying, "The Government should have intervened; the Government should have intervened". Madam Speaker, that was a dispute between a private company and its employees. It was not a dispute involving government employees. We had no role in that.

Mr Kaine: Was the trade union involved?

MR CONNOLLY: The trade union movement was strongly involved. The trade union movement was involved in taking industrial action and in arguing the case before the commission, and the commission said that the trade union movement was right. The commission ordered that company to make the redundancy payments to the workers who had been sacked that the union movement had been urging. The union movement was found to be right by the independent umpire. The system, Madam Speaker, was shown to work. Mr De Domenico said that we should have intervened in that, somehow, and taken government action at some point. The system worked.

Within the bus industry, within ACTION, we have had a few days of industrial disputation this year because the Government has taken a decision to achieve certain savings in that industry. That was a collective government decision which this Government collectively stands by, and we will deliver on that. That is in marked contrast to the approach when Mr Kaine was in the chair as Chief Minister and Treasurer, when the ACTION deficit just kept going up.

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Do not take my word for it; look at the figures published in the recent Advance Bank study on transport in Canberra. We see that the ACTION subsidy was just escalating in the period of your stewardship. This Labor Government has gone in, is achieving reform in the workplace, and is achieving real savings for the ratepayers, and we will continue to do that.

Let us look at the Electricity and Water Authority. Again there was great agitation. What did the Government do? We came across situations where there were payments which our auditors told us were inappropriate. Those payments were stopped. We had a meeting with the unions. We said to the unions, "Of course, you can dispute this in the commission". That has happened. The matter is proceeding in the commission. Not an hour of time on the job has been lost as a result of that difference of opinion. I have given an undertaking that we will abide by the decision of the commission, and so have the unions. The matter is being resolved. Certainly, there is a bit of heat and conflict from time to time in industrial relations between this Government and some of its unions. That will always be the case; but we play the game through the Industrial Relations Commission and we play the game through consultation.

What sort of results are we achieving? Madam Speaker, a document that I have cited before - the performance indicators for the electricity supply industry - shows a picture within ACTEW of steadily increasing labour productivity. We are well above the national average in terms of gigawatt hours sold per employee, at 2.7, as opposed to a national average of 2.2. We moved from 2.3 in 1988 to 2.7 in the 1991 financial year. So, there is consistent improvement in productivity in the workplace within ACT public authorities.

Mr De Domenico: But you are only a monopoly wholesaler. You do not generate it; you sell it.

MR CONNOLLY: Within ACTEW we are achieving productivity increases. That is the point, Mr De Domenico. The Liberal approach is that the only way to achieve savings, which we need to achieve, the only way to allow business to be more efficient, is to slash workers' wages. That is the simplistic approach of members opposite. We take the approach that you can achieve those efficiencies and savings by better productivity in the work force. Your workers are working more effectively, earning probably better pay and enjoying better conditions, through everyone achieving more. We say that you can increase the size of the cake. You say that you have to cut down on the slice enjoyed by workers. Madam Speaker, that is not an approach that the Australian people will endorse. Within ACTEW in the last 18 months or so we have reduced the number of unions in that workplace from 19 to 13. We are establishing workplace groups with a view to being able to move into industrial enterprise bargaining within the context of the established industrial relations system, as Senator Cook is encouraging across Australia.

Within Urban Services we have an enormously low level of industrial disputation. Consultative groups are being established across the board in order to achieve workplace reforms and greater productivity. Within the Building Assets Management Group we have some unionists off-line, engaged in full-time consultative work and workplace reform duties to achieve a more productive work force. All of that is being done within the context of the established industrial relations system. Madam Speaker, our system is delivering the results. The Opposition's system will deliver chaos.

MR HUMPHRIES (4.03): Madam Speaker, frankly, I find that the views expressed by those opposite, the Minister for Industrial Relations and his colleague Mr Connolly - - -

Mr De Domenico: He has gone.

MR HUMPHRIES: He has gone, I notice. He could not stay in the room. They really do belong to a bygone era. In this, Madam Speaker, they really are the conservatives of Australian politics. They are the ones who do not understand that time has marched on and it is time for us to develop a new approach to the serious economic problems our country is facing, no less in this Territory than elsewhere. Look at the words that have been used, particularly by Mr Berry, in the course of this debate; words like the workers and the bosses; phrases like cut and slash, scorched earth, return to the Dark Ages, policies of the Sun King, nineteenth century mine disasters. Then we had Mr Connolly calling on the authority of Alfred Deakin, a Prime Minister of 90 years ago. This is the classic "proletariat versus the capitalist" kind of language we are hearing from this Government, and it is not applicable any more.

We have a sophisticated work force in this country. We have people who are highly educated and intelligent and who are capable of making decisions for themselves and negotiating with their employers in a way which the present rigid, inflexible industrial relations system does not allow them to do. Frankly, Madam Speaker, it is insulting to tens of thousands of workers in our community at this time that they are told, "We cannot trust you to make deals with your bosses, to negotiate directly with your bosses, about your wages or your conditions or your hours of work or whatever it might be. We do not trust you to do that".

Mr Kaine: Good old Uncle Wayne is going to take care of you.

MR HUMPHRIES: "Uncle Wayne is going to take care of you. He is going to fix you up. We will put you in a nice little straitjacket, and that is the end of your responsibility in this matter". Madam Speaker, that view is rooted in the past. It sees unions as an essential player in the industrial scene, irrespective of how accurate that point of view really is. It treats workers as being too slow or too stupid to be able to advance their own cases in proper fora. It says that unions need to be entrenched in the industrial relations system and given privileges and powers as part of that system and made a principal in negotiations under that system, not just an advocate for a principal in those negotiations. In other words, they are a factor in industrial relations, not just something that supports one side or the other in those negotiations.

That attitude, Madam Speaker, lies at the very heart of our present economic problems in Australia. It is an attitude which says that the present apparatus of wage protection and protection of conditions that workers enjoy is actually more important than the wages protection itself or the protection of conditions itself. The way you have set up your mechanism to stop changes from taking place is so important that you cannot permit that system to be tampered with, even though that system is demonstrably working against the interest of thousands of workers all over this country.

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Madam Speaker, the fundamental question is this: Is the present system in Australia realistic? Is it working? The answer has to be, for three reasons I would submit, clearly no. First of all, the present system takes conditions of employment and it formulates what those conditions should be at the national level for the most part, or at best at State level, and then it says, "These conditions are going to be imposed locally in every workplace that falls within the description to which this particular industrial award applies, irrespective of how applicable that award might be to the particular circumstances of a particular workplace and irrespective of how many jobs that particular award might actually cost". Let us not fool ourselves; many industrial awards in this country do cost jobs. They do cost jobs because they are applied inappropriately in workplaces, with the result that the persons who presently enjoy employment simply cannot continue to be employed.

Mr Lamont: Where? Name one example.

MR HUMPHRIES: Madam Speaker, if Mr Lamont is not aware of the countless examples of firms that have gone to their employees and said, "We cannot keep going; we are at the end of our profitability and we want to renegotiate the arrangements under which we continue to work in order to keep going. Will you be in that?" - - -

Mr Lamont: That is not what you said originally.

MR HUMPHRIES: Yes, it is. That is what I said. That is exactly what I said.

MADAM SPEAKER: Order, please!

MR HUMPHRIES: The present system, Madam Speaker, has clearly resulted in workers being unable to continue in employment because the industrial system simply does not have the flexibility to allow them to negotiate reasonable conditions for them to be able to continue in their present employment.

The second reason, as we have seen in this community, is declining levels of union membership. People in this country are perceiving that unions are no longer an important part of protecting their position and their employability because they see that unions are not relevant to the conditions of employment in their workplace. The third problem, Madam Speaker, and it is a very eloquent statement as to the inadequacies of our present industrial relations system, is the nearly one million unemployed people at present. If that is not an articulate testimony to how dramatically the present system has failed, I ask you what is.

The problem with the present inflexible wages system is that it divorces wages and conditions from profitability. Madam Speaker, let us get this quite clear. Profits in the operation of businesses create jobs and sustainability is necessary to preserve jobs. If a business cannot make money, then it cannot continue to offer long-term job prospects for its workers. On countless occasions, notwithstanding what Mr Lamont might think, in the last few years at least, businesses have had to say to workers, "We simply cannot afford to offer you a job at the level which is prescribed by the industrial award and therefore we are afraid we have to let you go". Occasionally, some employers have taken a different tack and they have said to their workers, "We cannot continue to offer you employment at the

present levels or in the present circumstances. How about we renegotiate? How about we discuss something which is outside the award structure or outside the present applicable industrial laws?". Invariably, in those circumstances, the reaction of trade unions in this country has been, "Stop that. You are not permitted to do that. You have an industrial relations system which you must adhere to, lest, in particular, our power as unions be eroded in that process". That, Madam Speaker, is exactly what it is all about. This policy, Madam Speaker, announced yesterday by John Howard, gives to our industrial system the flexibility which I believe we have to have to survive economically as a nation.

Let us look at what has happened in New Zealand. In New Zealand we have seen that flexibility introduced and it has had widespread acceptance because it has worked. In New Zealand the facts speak for themselves. Growth is up. Employment is rising. Interest rates are down. Inflation is down. Madam Speaker, if those opposite do not realise a good thing when they see it, then we really are in a lot of trouble in this country. That system, that flexibility, that prospect of real jobs into the future - not jobs that are dictated by some remote negotiation between a union representative and an employer representative, but jobs actually negotiated in the workplace - is what really does matter in preserving the long-term profitability of the businesses that are so important to our long-term future.

Madam Speaker, those opposite are frightened by what they see in this policy. They are frightened because they know that this is a blueprint for the future. This is what the Australian people want. Madam Speaker, they say opposite that the Australian people are not going to accept this policy. I say that the Australian people, as proved by the increasing numbers who are abandoning trade unions in this country, know that the present system, typified by the power of entrenched industrial trade unions, has to stop. At the next election they are going to support this system which gives them the real chance to influence the course of their own lives and the profitability of their own enterprises.

MR LAMONT (4.13): Thirty seconds is all it will take to demolish all those arguments. Madam Speaker, I rise to address two points very quickly. First of all, I say to the Leader of the Opposition that it is obvious that he does not understand how industrial relations in this country work. You do not know, in fact, how the private sector awards in the ACT work. You do not understand how they have been arrived at. You do not understand the history, going back to 1949 in the ACT. You do not know how ACT based awards, particular and peculiar to the ACT - - -

Mr Kaine: You are wrong, Mr Lamont, again.

MR LAMONT: If you do know that, what you said in your introductory remarks just shows how little you care for the veracity of some of the things that you said in that document.

Madam Speaker, quite simply put, most of the ignorance displayed by those opposite cannot be apologised away. It cannot be allowed to go unchallenged. Their lack of understanding about industrial relations has really reinforced the ignorance in their - what do they call it, "jobsack", "ratsack" - - -

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Mrs Carnell: Jobsback.

MR LAMONT: What is it?

Mrs Carnell: Jobsback.

MR LAMONT: I tell you what; you could have more easily called it "ratsack". It would have been more appropriate.

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

Mr Stevenson: I seek leave to move an extension of time for a quarter of an hour for the matter of public importance.

Leave not granted.

FAIR TRADING BILL 1992

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

That this Bill be agreed to in principle.

MR DE DOMENICO (4.14): Madam Speaker, it is a pity that Mr Connolly is not here. I was going to say that the Liberal Party will not be opposing this Bill. It is very good legislation. It brings the ACT into - - -

Mr Kaine: Don't go overboard.

MR DE DOMENICO: You have to be truthful, Mr Kaine; let us face it. It brings the ACT into line with the legislation in other States and Territories. Can I say how refreshing it is to be working with Mr Connolly, because he has always made his public servants available. I also acknowledge my gratitude to Mr Tony Charge, the Director of Consumer Affairs, for his valuable input into our deliberations and for his kindness in coming to see us from time to time, with Mr Connolly's approval. I put on the record that the Director of Consumer Affairs and his officers have done a marvellous job in helping the Opposition come to the position of saying to Mr Connolly, "We will be supporting this Bill".

As Mr Connolly said in his in-principle speech, many of the obligations and benefits contained in this Bill are not new to the Territory traders and consumers. Since it commenced in 1974 the Commonwealth Trade Practices Act has imposed fair trading obligations on individuals in business as well as on corporate traders in the Territory. I have advised Mr Connolly of an amendment the Opposition will be moving to clause 6 in the detail stage of the debate. The Bill virtually mirrors the Trade Practices Act. In areas where it does not mirror the Trade Practices Act it makes use of existing legislation in both New South Wales and the Northern Territory, which hopefully will give the ACT perhaps the most modern piece of fair trading legislation in the country. Mr Connolly alluded to the fact that the Sale of Goods Act and other pieces of legislation that can now be encapsulated in this Bill might be repealed so that we have less legislation on the books. It will be much easier for business to make profits and to employ people if it has less bureaucracy to deal with in terms of legislation.

There are a couple of questions I would like to ask Mr Connolly, and he might care to answer them in the course of his remarks. Clause 23 says that traders must not use referral selling techniques which induce consumers to buy goods or services in return for a future uncertain benefit. I would like to ask a question about American Express. As Mr Connolly might be aware if he is a member, American Express from time to time offer inducements if you sign up friends or relatives or what have you. I wonder whether that is also - - -

Mrs Grassby: Ask Gary. He got a computer, or was it a trip? What was it you got, Gary?

MR DE DOMENICO: I am not aware of Mr Humphries getting anything, whether trips or computers; nor honestly do I care, Madam Speaker. I just want to know whether that is caught up in clause 23. Mr Connolly might answer that question.

I can recall that in the debate on the parental leave legislation last week in this Assembly Mr Berry unfortunately said things like, "No, we cannot accept your amendment, Mr De Domenico, because it alludes to codes of practice, and we will not accept anything that we do not know anything about". Can I say that this Bill and other Bills that have come before this house have mentioned codes of practice. Once again, Mr Berry ought to realise that he has been doing it all the time himself. His argument was flawed, as it always seems to be when he gets up on his feet. I just mention that. I am also delighted that, because a code of practice is prescribed by regulation, it is subject to the disallowance procedures of this Assembly. That is of great benefit, I believe, and is what makes this good legislation.

We will be moving an amendment to clause 6 and we will also be accepting the amendments Mr Connolly is putting up as a result of the Scrutiny of Bills Committee consideration. It is sensible legislation. Hopefully, it will mean that other pieces of legislation will be taken away to make it easier for businesses to do business in this town. It is good legislation, and for that reason the Liberal Party will be supporting it.

MR HUMPHRIES (4.18): Madam Speaker, I want to make some brief comments. As Mr De Domenico indicated, the Opposition is supporting this Bill. It is a package that goes with the Consumer Affairs (Amendment) Bill, which is next on the notice paper. The effect is substantially to enact into ACT legislation provisions of the Trade Practices Act, an important piece of Commonwealth legislation. It is very hard to argue with any provisions that occur specifically in the Bill, for that reason. What we are doing is simply restating, in effect, the present law in a different format. Arguments have raged backwards and forwards in the Federal Parliament from time to time about the efficacy of the Trade Practices Act, and this is not the place to enter into them now. The point of this legislation is that we now have, in a sense, a patriated version of the Trade Practices Act, and it is possible for us to effect at the ACT level those changes that we might feel appropriate.

It does raise in my mind a slight confusion about just what the Government's direction is with respect to legislation of this kind, however. We have seen a fairly consistent desire by successive governments to provide, as far as possible, standard laws to apply across the whole of Australia - legislation that either is

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based on a model or actually operates to incorporate by reference other legislation, perhaps national legislation, to ensure that as far as possible the law is the same from one State to another. That is a very laudable process. I think it is a better process than having the Federal Government simply assume all the power to make those sorts of laws. But it is a process that entails some cooperation between State and Territory governments to make sure that they have a standard set of laws. Indeed, the Mutual Recognition (Australian Capital Territory) Bill, which the Chief Minister, I understand, tabled in the Assembly last week, has the impact of further strengthening that process, providing us with the standard and level of law-making which occurs across the country.

This Bill and the accompanying Consumer Affairs Bill, therefore, have in a sense a slightly different direction. You might even say that they go in the opposite direction to those sorts of provisions. We have here a Bill which provides for the ACT to have laws that are potentially quite different from those applying in other places. Given that for most of the last 20 years we have enjoyed the standard law applying across the whole of Australia in the form of the Trade Practices Act, with some exceptions - I understand that there are some provisions that do not apply everywhere, but for the most part applying across the whole of Australia - it now seems a little strange that we are retreating a little into our own cocoon and providing for legislation that is peculiar and particular only to the ACT. In the Minister's presentation speech he said:

Although our Fair Trading Bill contains the same basic consumer protection provisions -

that is, the same as in the Trade Practices Act -

it places them in the context of the ACT political and economic environment. Consequently, this law and any regulation made under it will reflect this Assembly's views about the fair trading rights and responsibilities of Territory consumers and traders.

Admittedly, it does not do that yet. All it does is reflect the Commonwealth Trade Practices Act as it stands today. But eventually, presumably, we are going to see amendments to the Fair Trading Act which progressively will incorporate changes at the ACT level. I assume that that process, together with the process of enacting codes of practice, will provide a measure of idiosyncrasy in the ACT which it is obviously the Government's desire to achieve.

I hope that the Minister will be able to clear up, in my mind at least, why the Government pursues a different direction in this Bill from the other Bills I have referred to - for example, the Mutual Recognition Bill the Chief Minister introduced last week. What is the reason for this decision to depart from a national piece of legislation, or a national program, and pursue a local one? I know that the decision to enact fair trading legislation was made some seven or eight years ago at least - in 1983, I think it was - so it is a decision of some long standing and it has obviously been followed by other jurisdictions. But I am still curious as to the reason for that departure in direction. I hope that the Minister will be able to enlighten us on that.

As I said, I cannot argue with the provisions of the Bill. They provide very wide protection for citizens of the ACT and they are matters that I think are desirable, although, as always, the operation and administration of the Bill will greatly affect how successful it is in protecting their rights and also ensuring that traders, as providers of services and goods to consumers, are protected in that process. That is also very important. I support this Bill and hope that the Attorney will be able to enlighten us on the issues I have raised.

MS ELLIS (4.25): Madam Speaker, I am pleased to speak in support of the Fair Trading Bill. As the Attorney-General noted in his presentation speech, this Bill is the first stage of the Labor Government's strategy for developing up-to-date legislation to promote and enhance fair trading in the ACT. The Attorney-General has already provided the Assembly with a detailed outline of the Bill's main provisions, so I will not repeat what he has said. Instead, in lending my support to this very important piece of legislation, I would like to highlight an aspect of the Bill that I think demonstrates its particular value to the ACT community.

The aspect I would like to address is the unfair trading practice known as dual pricing or double ticketing. At some time in our lives as consumers most of us will have been a victim of this misleading marketing practice. In some instances we may have treated the experience as a minor irritation, not worth the bother of drawing it to the attention of the checkout assistant. At other times we may have been incensed by the deception and determined to address the issue because it was a matter of principle. Either way, we would have preferred it not to have happened at all.

Unfortunately, these days this kind of misleading conduct appears to be happening more often. Perhaps this is because, when we shop, the price is often the basis of our purchasing decisions. Perhaps we are also more aware shoppers; we like to have sufficient information to enable us to make accurate comparisons between competing goods or services. Everybody is interested in getting value for money. However, comparative shopping by price can be very frustrating if there is an inconsistency between the advertised or shelf price and the price we are finally asked to pay at the checkout.

In the retail trade, consistency between these prices is known as price integrity and, as the name implies, it has a lot to do with fair and honest trading. It also has a lot to do with observing the law. Observing the law has a lot to do with understanding when and how it applies. The prohibition of this kind of unfair trading is not new. Section 53(f) of the Commonwealth Trade Practices Act prohibits false representations about the price of goods and services. This Fair Trading Bill mirrors that general prohibition in clause 14(g). Clearly, dual pricing of the kind I have described can be characterised as false representation. However, its prohibition has not eradicated the practice. Perhaps this is because more attention has been given by the Trade Practices Commission to misleading pricing practices of the "Was \$100; now only \$10" kind of advertising with which we are familiar.

The Government believes that one way to encourage traders to know and observe this aspect of the law is to prescribe the minimum standards the traders must observe when pricing their goods. Setting minimum standards, as contained in clause 22, so that Territory consumers and traders will know when and how these practices constitute unfair trading, is, in my view, one of the most important

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purposes of this Bill. The real possibility of finding oneself in breach of clause 22 should be an incentive for all retail traders to establish and maintain the appropriate mechanisms to ensure price integrity, especially where they are using electronic devices such as scanners to price goods.

The Trading Standards Office of the Consumer Affairs Bureau regularly surveys ACT supermarkets and other retail stores to check on price integrity. Sad to say, the office reports that many traders are unaware of and, indeed, in some cases somewhat cavalier about the need to ensure that shoppers are not misled about the price of goods. It is true that some industry self-regulation exists; but, unfortunately, it is not yet operating widely enough to maintain price integrity across a wide range of retail trading.

I am pleased to note, however, that some sections of the supermarket industry have taken the lead. Quite a few ACT supermarkets subscribe to the Australian Supermarket Institute code of practice for computerised checkout systems in our supermarkets. This voluntary code sets out minimum standards for shelf labelling and procedures for maintaining price integrity and ensuring that checkout staff know and observe the code. If you are buying something from a supermarket that observes the code and find that the scanned price for an item is higher than the shelf price or some other displayed price for that item, you are entitled to be given the item free of charge.

However, not all supermarkets or, for that matter, other kinds of retail stores subscribe to the code. Indeed, I understand that the Attorney-General has been urging all ACT supermarkets to adopt the Australian Supermarket Institute code of practice. I note that Coles, Woolworths, Jewel and Franklins have adopted the code, and they deserve recognition for having recognised the importance of price integrity and observing the law. I believe that the specific prohibition of dual pricing in this Bill will act as a catalyst for increased interest in compliance with the law by self-regulation in the industry.

Debate interrupted.

ADJOURNMENT

MADAM SPEAKER: It being 4.30 pm, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

FAIR TRADING BILL 1992

Debate resumed.

MS ELLIS: I point out that clause 22 will not interfere with the operation of the Australian Supermarket Institute's voluntary code. It is modelled on a similar provision in the New South Wales Fair Trading Act, which has been operating in New South Wales since 1987. The clause requires all traders to take reasonable care to avoid selling goods at a price greater than the lower or lowest price appended to the goods.

The word "appended" has a wide meaning. It includes the prices on any labels or advertising displayed on or attached to the goods. For example, if the shelf price of a tin of spaghetti is 75c, the scanned price is 95c and the sign on the display stand is 70c, the maximum price that can be legally charged is 70c. Likewise, if goods carry two price tickets, they cannot be sold at the higher of the two prices. If a trader wants to mark up the price of goods, he or she will have to remove the lower price label before the new price label can be affixed. In my view, this is not unfair to fair traders. It applies only to mark-ups, and it is in situations such as these that a trader has a positive duty to ensure that shoppers are not misled by discrepancies in prices.

Before I close, I think it is important to make it clear that this provision does not mean that a trader must sell his or her goods at the lowest price appended to them. The law of contract remains intact and says that, when a customer takes his or her selection of goods to the cash register, he or she is making an offer to buy the goods. That offer to buy does not become a contract for the sale of the goods until it is accepted by the trader. Therefore, if the scanner or a search of the goods themselves reveals a higher price, it is up to the trader or his or her sales assistant to withdraw the goods from sale rather than charge the purchaser the higher price. Withdrawing goods from sale might well be justified if the trader genuinely believes that there has been a pricing error or there has been some tampering with the prices. However, in most cases I suspect that, as a gesture of goodwill, the seller will decide to sell the goods at the lower price.

Ultimately, if the seller or his or her staff are not vigilant and do not have the appropriate mechanisms in place to ensure price integrity, goods may be sold for more than the lowest appended price. In these circumstances, the seller will be in breach of clause 22 and liable to be prosecuted unless he or she can show that the breach was caused by an accident or some other cause beyond his or her control and the seller took reasonable precautions to avoid the contravention.

Hopefully, traders who observe voluntary codes such as that developed by the Australian Supermarket Institute will rarely find themselves in breach of this provision. If perchance they do, they may well be able to rely on the procedures set out in the code as their defence. By including provisions such as this in our own fair trading legislation, I hope that we will be encouraging more traders to adopt voluntary self-regulation procedures that are exemplified by the Australian Supermarket Institute's code. In this way, fair traders are supported and consumers get the best bargains and the best possible service. For these reasons, Madam Speaker, I commend the Bill to the Assembly.

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MR STEVENSON (4.34): I agree with the Bill in principle. One of the major areas of concern, and the Bill addresses it in many clauses, is false advertising. It is unreasonable to ask a consumer to have the awareness to know that when something is said to be of a particular type or quality they should be able to tell that it is not. I think we have to rely on the fair trading of traders in Canberra, and in Australia, to let us know.

One of the major concerns people have at the moment is that they wish to buy Australian made goods, particularly those made by Australian owned companies. There have been a number of programs on the radio and television and articles in the newspapers to show that, though some products have labels on them which state that they are made in Australia, in fact they come in from overseas. I went to David Jones recently when they had a sale on. They had a particular wallet for sale, and I wanted to see where it was made. It took me some two minutes to find out. You had to hold the flap of the wallet and pull it apart right into the corner, using quite a bit of force, and down inside I found "Made in China". Many people would have been misled because there was a label on the wallet, where you could easily see it, that said "Designed in Australia". I asked one of the senior shop staff where it was made. She saw this label and said that it was made in Australia. I then asked a floor supervisor where it was made. She simply did not know; she could not find it.

It is unfortunate that in Australia companies that make their products in Australia do not make it very clear where they are made; and, secondly, that companies that are Australian owned do not make it very clear that they are Australian owned. One example, of course, is Ampol, although not everybody knows that they are predominantly Australian owned. The various aspects of this Bill help people have the facts presented to them. It will be far harder for false advertising to occur.

As has been mentioned earlier, the provisions of this Bill largely come from the Commonwealth Government's trade practices legislation. Comments were made earlier about the Australian Supermarket Institute's code. I support the idea of business accepting voluntary codes. The code is working rather well in supermarkets. If you show that a higher price has been charged than was marked on the shelf, they will give you the product for free. That is a good idea. Voluntary codes would work very well in some industries that involve businesses.

However, I have some concerns with the Bill. A major concern is that it is very difficult to understand. I believe that most business people would not be able to understand the Bill without legal advice. A number of the clauses mention "a person", and say what a person can or cannot do. We find out that "a person" does not mean a person, but a company, an organisation and a person. It would be a good idea to put that in the Bill. The fact that it is in the Interpretation Act is not good enough; the suggestion that many people know this is not good enough. That is one matter that it would be beneficial to include. In general, I feel that many business people would not be able to understand the legislation, and that is not what we are writing legislation for. We should use plain English and simple clauses.

I have presented to members a number of proposed amendments. Some of them simply remove clauses that are duplicated or unnecessary. I ask for support on those clauses. A couple of them are more substantive. I will explain those when the time comes.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.39), in reply: I thank members for their general support for this legislation. The legislation is in some senses a landmark, although, as was indicated by Mr De Domenico and Mr Humphries, the black letter of the law is a re-enactment of provisions already in place at the Commonwealth level.

Mr Humphries asked the question: Why are we going the course of stand-alone legislation in the ACT when generally we tend to favour uniformity? That is a fair question to ask. The ACT up until now has been in a quite different position from any other State or Territory because it has been covered by the extended constitutional coverage of the Commonwealth Trade Practices Act. The Commonwealth Trade Practices Act applies throughout the rest of Australia only to corporations engaged in trade and commerce, because of the constitutional limitation on Commonwealth powers; but in the ACT, because of the plenary nature of the Commonwealth's Territory power, the Trade Practices Act has always had a broader scope and been able to apply to all traders, be they corporations, sole traders or partnerships. Every other State and Territory has its own fair trading legislation. It is better for the ACT, as a self-governing community, to be in the same position.

Mr Humphries did advert to the fact that the real change will probably occur when we start to amend the Act or create the codes of practice. I would say to Mr Humphries that it is probably in relation to the codes of practice that we will start to see the real benefit. That will allow ACT industry, government and consumers to work together to get some industry-specific and ACT-specific initiatives for fairer trading, have them enacted by way of gazettal and force of law as a regulation, disallowable and answerable to this Assembly, and allow us thus to respond to quickly changing needs.

The big advantage of this legislation, which was referred to by the Opposition, is that it may allow us to whittle down the multiplicity of laws relating to specific areas of trade, such as our door-to-door sales Act, and to have general principles of fairness encapsulated in the head Act and codes that are industry specific, and generally, one would think, done with the agreement of industry, to give more detailed regulation in specific industry areas where in the past we have relied upon stand-alone ACT legislation. So, in the long term this does offer the scope for a reduction in the level of regulation.

The point was made, again by the Opposition, that this must be a law that is beneficial both to the consumer and to traders, and the Government would endorse those remarks. It is a feature of this Bill that traders can be consumers. In relation to bringing an action, although you must be a consumer for the purpose of the definition in the Act, "consumer" does not mean only the individual. It can mean another company in certain circumstances. That will allow a fair trader, in effect, to seek an injunction under this legislation to force an unfair competitor to comply with the law. The unfair trader, the person who is cheating, is not only cheating a consumer but also undermining the trader who is acting responsibly and fairly, undercutting his profits and his ability to employ and invest in this Territory. Obviously, fair traders in this Territory would benefit from the ability to seek actions against unfair competition from less scrupulous members of the business community. This Bill will benefit not only consumers as individuals but the business community as a whole, because it is in the interests of the business community as a whole to act fairly.

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Mr Stevenson was somewhat critical of what he described as the overly complex nature of some of the legislation, and to some extent that is criticism one has to accept. We are talking here about legislation based on the Commonwealth Trade Practices Act, enacted in every State of Australia in one form or another, and it is law which is by nature somewhat complex. We are getting into areas of competition law, areas of black letter law, and I would have to accept Mr Stevenson's proposition that it is not that easy to read the Act and come to a clear understanding of the law.

We have made a significant effort in our explanatory memorandum to set out a clear explanation of what we are doing. There has in the past been a tendency for explanatory memorandums merely to pick up the wording of the Act. I am sure members would have had experience of puzzling over a clause and going to the explanatory memorandum and seeing precisely the same words in the explanatory memorandum as appeared in the clause that is a bit ambiguous in the original Bill. We have made an effort to clarify that. We have also made an effort in the explanatory memorandum to cross-reference to equivalent Trade Practices Act provisions, and that will make the job of business somewhat easier. Perhaps we are not talking here about the very small business person; but medium to small businesses would often avail themselves of some of the commercial services, such as the CCH business law guides, which set out very crisply and clearly in lay terms the effect of some of these Trade Practices Act equivalents.

While the law is of itself in some areas complex, because it is dealing with areas of competition law and other quite complex concepts, and we have often had to have definitions that are rather complex in order to ensure that the courts can achieve certainty, we have tried to make it more accessible by way of a very carefully thought out explanatory memorandum, with cross-referencing in that explanatory memorandum to the relevant equivalents in the Commonwealth Trade Practices Act. That Act is very well known to business in the ACT and there is an extensive set of literature available on it, often at a quite affordable price - books designed for small business or medium business, to explain their obligations under that Act. So, to the extent that we can, we have tried to make the Bill accessible. Mr Stevenson's comment that commercial law should be accessible to a business person is a fair comment, and we have attempted to address it in that way. I thank members for their general support in principle for the Bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

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

ADJOURNMENT

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

That the Assembly do now adjourn.

Member's Engagement

MRS GRASSBY (4.46): Madam Speaker, this Assembly has counted many firsts in its short history since 1989, and I shall mention a couple. Many people forget that the ACT Government was the first government in Australia to be led by a woman. Our current Chief Minister, Rosemary Follett, formed our first Territory government. Another first that we all remember, for one reason or another, was the great debate on fluoride. First we took fluoride out of the water, then we put half of it back, and finally we put it all back. I am sure that we also recall the saga of the monkey bite, and our esteemed former Speaker unfortunately being trapped in Hong Kong with no visa. In this Second Assembly we are still celebrating firsts. Mr Connolly celebrated a first for the Assembly a couple of weeks ago when he and his wife, Helen, added to the Labor ranks with the birth of their first child, a healthy daughter. I congratulate both Mr Connolly and Helen on the arrival of their beautiful daughter, Lara.

Tonight I rise to speak about yet another first for a member of this Assembly. I am, of course, referring to Mr Humphries's recent engagement. I wish to add my congratulations to the many others that I am sure he has received so far. I would like to say, with thanks to Mae West, that marriage is a great institution, but I was not aware that Mr Humphries was ready for an institution just yet. I am pleased for him, as I was afraid that he might go through life as one of life's unclaimed treasures. However, this is not to be the case. I was so concerned that I started carrying around a photograph of Mr Humphries to show eligible young ladies what they were missing out on. You might say that I was prepared to act as a basadaeir. A basadaeir, of course, is an Irish marriage broker who takes a commission from the dowry for his or her services. I might add that I expected a very high commission for such a difficult job.

Mr Humphries has beaten me to the punch, but I do have some advice for him and for his fiancée. As a veteran of many preselection battles over many years, let me advise Mr Humphries that you can always depend on your family to vote the right way. So, I would suggest that he plan a large family. Do not worry about waiting for your own children to turn 18. Remember that adoption is always a great solution for taking control of the Young Liberals now. From my experience as a politician's wife and now as a politician myself, let me say that Cathie will have to get used to keeping dinners warm or, in these modern times, cooking meals that can be easily microwaved. As for wedding presents, let me suggest an electric blanket for those late night sittings and plenty of mystery books to give her something to do besides waiting for Gary to get home. I remind members of what Zsa Zsa Gabor, the expert on marriage, said: "Husbands are like fires. They go out if unattended". My favourite quote on marriage is: "A woman must be a genius to create a good husband". Finally, let me congratulate Mr Humphries and his fiancée on their announcement and wish them well in the future. We all look forward to the next big announcement they make.

Casino Canberra

MR STEVENSON (4.50): I rise to read an advertisement by Gus Petersilka that was in the paper today. I thought there were some relevant points in it. It says:

MRS FOLLETT IS IT WORTH THE EFFORT.

You carried a large photo of our first lady (Ms Follett) on page two (17th this month) displaying an enlarged cheque of 19 million dollars!!! as advance payment for the casino premium.

Do the people of Canberra realise what this means? The casino operators are so convinced and sure that the people gambling in that gambling house will lose sooner or later that much money (and a handsome bit extra for the operator). It is extremely silly to believe that Visitors in Canberra will be the losers. The visitors in Canberra are not the type of holidayers you will find on the Gold Coast. They are not the ones who need or want a Casino to enjoy their staying in Canberra. The recent successes, from the Rubens exhibition to the unveiling of the Vietnam memorial, Floriade and the conventions, which have brought so many intelligent people to Canberra. Not to forget the many overseas and interstate tourists visiting Canberra. These people have demonstrated that Canberra does not need a casino ... And I can prove it.

I have provided a questionnaire to all my customers and one of the questions refers to the casino. 95 per cent expressed the opinion that Canberra does not need a Casino. Even the majority of locals are opposed to a casino. Other questions referred to video pornography and dancing in Garema Place. Our "First Lady" got us this Casino and the millions of dollars she so proudly obtained WILL, EVENTUALLY, COME MAINLY FROM THE LOCALS. Those local organisations and Traders who supported the casino will soon feel that the buying power of the locals will be dramatically reduced. Our poker machine clubs will be the first to suffer and many jobs will be lost.

Ms Follett, I would have never expected that a Labor Government would act so antisocially and exploitative of its own working class people and wage-earners.

WE MUST ASK THE QUESTIONS NOW: WHO IS BEHIND THIS CASINO? WHO ARE THE PEOPLE IN THIS CASINO ENTERPRISE? ARE THERE LOCALS IN IT? WHERE IS THE MONEY COMING FROM? WHO ARE THE FINANCIERS? WHO IS ON THE BOARD TO CONTROL THE CASINO OPERATIONS? WHO SELECTED AND ELECTED THESE PEOPLE?

The people of Canberra have the right to know who is behind this treacherous plot to expose the community of Canberra to such unnecessary temptation. It is unfortunate that Canberra is still not providing a clean and civilised Night life because landlords are only interested in money and occupation of their empty premises (remember the sex shops in Civic). It is for these reasons that a Casino will attract too many people hungry for excitement. The result will be tragic for too many Canberra families and traders.

Ms Follett, are those millions worth the misery they will bring to many innocent people? You and your Government must take the blame.

GUS PETERSILKA.

I do not agree with everything in this advertisement. However, I thought it worth mentioning that, if there is one person in Canberra who has stood up for long to present arguments on behalf of the people of Canberra, it is Gus Petersilka. If there is one person who has spent a great deal of their own money, it is Gus Petersilka. As we all know, Gus is somewhat of a local monument when it comes to standing up for important issues. He is a good example for people to follow in getting involved.

As I said, I do not agree with everything Gus says; but some of the points he makes are quite relevant, particularly where he talks about the money coming into the casino. I too agree that most of the money going into the casino will be coming from local people. I note that Mr Berry is laughing. I am not sure whether it is because of what I said about most of the money coming from locals. I think that time will tell. As a member of the casino inquiry, I found that pawnshops, particularly in South Australia, had done somewhat of a roaring trade with people who were pawning goods so that they could gamble their money away. It is a problem. Considering the image of Canberra as the nation's capital, I think we would have been able to do far better than to have us known as the porn capital or the casino city, or any of these other things. What about something different for the nation's capital?

Lions Club

MS ELLIS (4.55): Madam Speaker, I rise to relate a story of an incident that I very much enjoyed a couple of weeks ago. One lunchtime when I had an hour to spare on a fine day I went for a walk over to Floriade. Much to my surprise - I was in ignorance of what I was about to see - I saw a Lions Club minibus heading off through the walkways of Floriade, full of elderly citizens from one of our nursing home and retirement village establishments. Having spotted this bus and knowing the two gentlemen driving and commentating in the bus, I headed over and said, "How are you allowed to do this? What are you doing?". I was told that every year, for about three years now, the Lions have had this rather remarkable timetable with their minibus, in that they now have to book it up weeks in advance for Floriade. They go around to retirement villages, nursing homes and the like in the ACT and collect a bus load of people who, for various reasons, could not go through Floriade, and the ACT Parks people allow them to go through most of the Floriade area in this small bus.

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I was pretty amazed by this and am grateful for the efforts that the Lions volunteers put into this service. It was the day before the dawn service on the Vietnam weekend. I said to the gentlemen in the bus, "My gosh, you are going to be exhausted. You will need this weekend. You are doing this hour after hour, day after day in Floriade, as well as running your own lives". They said, "No. We are in for a busy weekend. We start at three in the morning to pick up people to take them to the dawn service. We have to start early because we are setting up the barbecues and so on for the breakfasts being put on for the veterans". I think this was pretty impressive. The bus again was being put to wonderful use and the volunteers again were giving very generously of their time. I would like to put on record the contribution of these people in the Lions Clubs. I think a number of Lions Clubs are involved. The people sitting in that bus were having a fantastic time. But for that, they probably would not have had access to Floriade. I would like to personally commend the work of the Lions Club people involved.

Floriade

MR LAMONT (4.58): I rise very briefly, following that reference to Floriade and also the comments made by the Chief Minister in her statement on tourism earlier this afternoon, to publicly acknowledge once again the contribution of the work force of the ACT administration responsible for the displays at Floriade. Everybody has said that Floriade this year was bigger and better than in previous years and, to no small extent, that is directly the responsibility of people engaged by the Parks and Conservation Service in the Department of the Environment, Land and Planning. Minister, I would hope that you would pass along my compliments and those of every other member of the Assembly, I believe, on the sterling work that our employees do to show off Canberra to the people of Australia. I think that they can hold their heads up proudly. The number of hours that they put in is absolutely phenomenal. I think that the beauty of Floriade is a proper testament to that. I believe that by agreement we should this afternoon congratulate them.

Mr Bill Kerr

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.59): I thought it was appropriate to rise and speak very briefly this afternoon. This afternoon marks the retirement of Mr Bill Kerr as Fire Commissioner in the ACT. Mr Kerr has served for some eight years as head of the Fire Brigade in this Territory, on top of a career of some 30-odd years in the fire brigade of Scotland. I am sure that, in the brief time that we have left, all members would join in wishing him well in his retirement - - -

Mr Humphries: Except Mr Berry.

MR CONNOLLY: Let us not be churlish, Mr Humphries. I am sure that everyone would join in wishing him a happy retirement after his long service to the community.

Mr Bill Kerr

MR DE DOMENICO (4.59): I want to endorse the comments made by Mr Connolly. I have known Mr Bill Kerr personally for a long time. What is not known perhaps is that he is one of Canberra's best minds in the area of jazz and blues music. He has a great collection of jazz and American Negro blues music. A true Australian now is Mr Kerr, after coming, as Mr Connolly said, from Scotland. Perhaps he is the man responsible for turning the ACT Fire Brigade from what it was to what it is now, and that is, the best fire brigade in this country. I also wish Mr Kerr a happy retirement.

MADAM SPEAKER: It being 5.00 pm, the Assembly now stands adjourned until Thursday, 22 October, at 10.30 am.

Assembly adjourned at 5.00 pm