DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

24 November 1992

Tuesday, 24 November 1992

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

QUESTIONS WITHOUT NOTICE

Industrial Relations - Trade Union Action

MR KAINE: I address a question to the Chief Minister. Chief Minister, you have publicly supported the trade unions in the ACT striking against the coalition's industrial relations policy. This public support for such action - and I point out that these are the policies of a coalition which for the time being is still in opposition - places you in a position where you and Prime Minister Keating are the only heads of government condoning this action. At a time of record unemployment, record bankruptcies, record business closures, record job losses and record debt, how can you join with the nation's most irresponsible leader ever to justify such a massive loss in productivity in this community?

MS FOLLETT: Madam Speaker, I say to Mr Kaine that I consider myself to be in excellent company on this matter. I believe that it is widely seen, not just in Victoria but throughout the Australian community, that the action Mr Kennett has taken is irresponsible in the extreme. It is action that is designed to disadvantage people who have jobs and who have taken on those jobs under a certain set of conditions, one of which was their leave loading, only to find that when Mr Kennett came to office he wrote that off with the stroke of a pen. It is an example, I am afraid, of a hidden agenda that had never been revealed to the people. Mr Kennett has been heard to say that he believes that he has a mandate for that. How on earth he considers that he has a mandate for something he never put to the people is beyond me.

There is no doubt that Mr Kennett's style of industrial relations, if you could call it that, will be mirrored by Dr Hewson in the unlikely event that he ever has a chance to perform in government. I believe that that is a widespread fear in the community, and trade unions have every right to protect the conditions and the rights of their members. They have every right to demonstrate in their own community that they will stand up for the workers in that community, even in the face of the kinds of tactics Mr Kennett has indulged in in Victoria. I support the right of trade unions to do that.

MR KAINE: I ask a supplementary question, Madam Speaker. I take it, then, that in order to support the discredited Labor Government in Victoria you are quite willing to put at risk future jobs that might be available for the 15,000 Canberrans who cannot find even part-time work?

MS FOLLETT: Madam Speaker, that is not a question. It is a purely hypothetical statement made by the Leader of the Opposition in some kind of attempt to give credence to Mr Kennett's draconian actions in Victoria. It is a nonsense argument to state that taking away the rights of workers in Victoria will somehow address the problem of unemployment. That is exactly the kind of argument we hear

from the Liberal Party - the party that simply does not care about workers, the party that thinks exploitation is okay, that thinks it is all right to pay people the minimum you can possibly get away with, down to the $3 an hour we heard about before. Madam Speaker, if Mr Kaine wants to ask that kind of ridiculous question, he then has to sit through the lecture he gets in reply.

International Strategic Marketing Competition

MR LAMONT: My question is directed to the Chief Minister. Is the Chief Minister aware of the success of the team from the Economic Development Division of her department in becoming the world champions in the international marketing competition Markstrat?

MS FOLLETT: I am indeed aware of the great success of the team from the Economic Development Division in the international marketing strategy competition. Members might recall that I addressed the house back in September on the team's success at the national level, and I am delighted to say now that they have gone into the international competition and have come out as the international champions. Coming as they do from my own Economic Development Division, I think I am allowed to say that I am very proud of them indeed.

The team comprises officers from the Economic Development Division and some who are no longer with the department. Their names are Noeline Scott, Michael Hore, Debbie Van Aalst, Natalie Dodds and Christopher Scaife. The team went on from the nationals, where they came a narrow second, to defeat not just the Australian champions but also teams from the rest of the world. Many of the other teams, of course, were from the private sector. They included teams from organisations such as Coca-Cola, St George Bank, Mobil Oil and so on. For a team from one of our departments to defeat the private sector pretty much at their own game, I think, is remarkable indeed. The team included three women. They were the only women who took part in the national finals and the only women who took part in the international finals, so that is another first for us. They also included the youngest competitor, I believe.

I am sure that all members would want to join with me in congratulating our team on that victory. It is a great distinction for the Economic Development Division to contain such people. I think we would all like to wish them well in their further careers. If the start they have made is any example, we can certainly expect great things from them in the future.

Workplace Agreements

MR HUMPHRIES: My question is to the Minister for Industrial Relations. In the interests of a flexible work force and a stronger ACT economy, does the Minister support the use of workplace agreements in the management of industrial relations, similar to the concept advanced and outlined in the Federal coalition's Jobsback package?

MR BERRY: Mr Humphries talks about the "jobsack" package, not the Jobsback package. You just cannot consider one small aspect of it without considering the lot. If we take into account the GST and the entire industrial relations policy being promoted by Hewson and his colleagues, and, I suggest, being promoted by those opposite, then workers in the ACT and other places will be in deep trouble. We do not support the approach that is being taken by Hewson. Hewson's approach overall is bad for workers. It reduces their power to negotiate. It will take away the protection of the Industrial Relations Commission and it will take away many other protections that are afforded to workers. It will also reduce their standard of living, but that is not something the Liberals have ever cared about when it comes to working people.

In relation to workplace bargaining, that arrangement is being dealt with very effectively by the Federal Labor Government in concert with the unions, and in particular the ACTU. That is the approach we support in industrial relations. We support an approach that is consultative and works in the interests of workers and the community as a whole. We support the approach that has delivered higher standards of living across this country than would otherwise be the case if the Liberals were to have their way. They are promoting lower standards of living for Australian workers and their families. They are promoting less powerful workers in the workplace to ensure that that occurs. We do not support that approach.

MR HUMPHRIES: I have a supplementary question, Madam Speaker. I think Mr Berry was unhappy with the Jobsback workplace agreements arrangement. I ask him, therefore, how he reconciles that position with the Labor Party's own policy platform in the ACT? Paragraph 3.5.2 states in relation to an ACT Labor government:

> Support the signing of Workplace Agreements as a way of improving occupational health and safety standards, as well as industrial relations generally.

How is that different in any real sense from what has been talked about in the Jobsback package?

MR BERRY: I saw the notice in the newspaper which talks about industrial relations as an essential element of micro-economic reform. I listened to Mr Humphries's supplementary question and I wondered, "Does this person know anything at all about industrial relations?". Obviously not.

Mr Humphries: What is the difference, Wayne?

MR BERRY: The very different approach I have already outlined in my response to his earlier question. You cannot compare the Labor Party's approach to workplace bargaining to that which is being proposed by Hewson and this motley crowd opposite. We are talking about an industrial relations environment where workers retain their power to protect themselves - not the environment which would be imposed upon them by Hewson and this lot opposite if they had the chance, where workers would have that power reduced. They do not want to see workers negotiating with power in the workplace. We do not support the approach that is taken by the Liberals, and you cannot compare your approach with ours.

Crime in Civic

MRS GRASSBY: My question is to the Attorney-General. Can the Minister inform the Assembly of any steps he or the police have taken in regard to the recent reports of incidents of crime in Civic and, in particular, Garema Place?

MR CONNOLLY: I thank Mrs Grassby for the question. The Government certainly is concerned at a couple of recent quite vicious assaults on young people in Garema Place. We are aware that there does seem to be a trend towards more violent, assault-style behaviour in the inner city area. In order to address what appears to be an emerging trend, the Government has taken some positive steps rather than mere rhetoric.

On Thursday I was absent from this chamber, as indeed was my counterpart Mr Humphries, attending a meeting in Melbourne on crime prevention - the inaugural meeting of the Australian Community Safety Council - in which a number of interesting ideas were put on the table about how other cities and other communities have dealt with similar problems. Crime in the inner city - the area where the nightclubs are, where the pubs and the discos are, where young people congregate - is not a unique Canberra problem. It is a problem around Australia and around the world.

Solutions that have been taken in other parts of the world - the knee-jerk solution of more police and tougher penalties - have been shown not to work. In the United States they have massive numbers of police and massive police resources. They have the highest rate of imprisonment in the world at the moment, and historically are exceeded only by Stalinist Russia. They have massive success in containing criminals, but no success at all in containing crime, when you look at the safety of the inner cities. That track does not work. So, the alternative is working together with the relevant community to build a safer community and reduce crime that way.

We heard on Thursday some very interesting developments in South Australia, where a safer Adelaide program has been running for some time. I have organised a meeting for Friday, which is being convened by the superintendent in charge of the city district and which will get together the police, the Civic traders, the Garema Place subgroup of traders, the Australian Hotels Association representing the discos and the licensed outlets in the city, relevant areas of my department, ACTION, which has a lot of involvement because of the interchange, and City Services, to come up with some ideas to make Civic safer.

We have in the past 12 months taken new initiatives with the beat squad. They spend a lot more of their time now on patrol, rather than being in the little kiosk. It is quite rare now to see police officers in that little kiosk in Garema Place; they are spending a lot more of their time out on foot patrol. Those sorts of initiatives have been positive, but we do need to do more. I am confident that by getting the community together at an early stage we can reverse this, what appears to be, emerging trend of crime in Civic and produce a safer community for us all.

ACTION - Industrial Action

MR CORNWELL: My question is to the Minister for Industrial Relations. I remind you, Minister, that this morning there was a bus strike. ABC radio informed listeners that the strike would be held from 10.00 am until midday; 2CC informed listeners that the strike would be held from 9.00 am until midday; 2CA informed listeners that the strike would take place for about four hours; FM104 informed listeners that the strike would take place between 10.00 am and 1.00 pm. I ask: Exactly what time did work cease and what time did it recommence?

Mr Berry: You probably should be asking the bus Minister.

MR CORNWELL: I do not mind, as long as somebody gives me a definitive answer, which would be an improvement on the answers we have received so far today. What time did work cease and what time did work recommence? Can the Minister confirm that workers who took part in this strike - I hope that one of you is listening - will have their pay docked for the time they were off duty? If not, why not?

MR BERRY: The question would most appropriately have been directed to Mr Connolly. I will pass it on to him in a minute, but I want to thank the Liberals for raising industrial relations as an issue, before I pass it over.

Mr Humphries: On a point of order, I would ask for your ruling, Madam Speaker. Will one Minister or the other be able to answer or will you allow both Ministers collectively to answer this question?

MADAM SPEAKER: For the moment I have one Minister on his feet before me; so, I will wait and see, Mr Humphries.

Mr Humphries: So, you will accept - - -

MADAM SPEAKER: You are asking me to anticipate, Mr Humphries.

Mr Humphries: Obviously, Mr Berry is going to provide an answer and then pass it on to another Minister for a second answer.

MADAM SPEAKER: Mr Humphries, can we deal with it if it happens, please. It is an anticipatory point of order which I am listening to, and I will deal with it when it happens.

MR BERRY: I rose merely to thank the Liberals for raising the issue of industrial relations. It gives us that grand opportunity to point out the great differences between us. I am sure that their Federal colleagues would not want them to talk about it. Mr Connolly is the Minister responsible for the buses.

Mr Cornwell: Could I have an answer to my question, please?

MR BERRY: He has a complete answer, which, I am sure, will not make you very happy either.

MR CONNOLLY: It would have been more interesting under the Alliance to hear two Ministers - - -

Mr Humphries: I raise a point of order, Madam Speaker. I ask for your ruling on this matter. Clearly, Mr Berry did more than just pass the question over; he provided an answer of sorts to what Mr Cornwell was asking - certainly as much of an answer as we ever get from Mr Berry. We now have an answer coming from Mr Connolly. Are you saying that this is in order under the standing orders or not?

Mr Kaine: For two Ministers to answer the same question? They will pass it around all four of them and they can all have it, and none of them will do any better than Mr Berry.

MADAM SPEAKER: Thank you, Mr Kaine. The standing order that relates specifically to the question says:

> Questions may be put to a Minister relating to public affairs with which that Minister is officially connected, to proceedings pending in the Assembly or to any matter of administration for which that Minister is responsible.

Mr Humphries: A Minister.

MADAM SPEAKER: Right, a Minister.

Mr Kaine: That question was put to a Minister and he did not answer it.

MADAM SPEAKER: Excuse me! My memory of *House of Representatives Practice* is - we have had this situation before - that a Minister may then choose to not answer that question and to refer that question to another Minister. In that case I think that it is in order for Mr Connolly now to proceed to answer the question.

Mr Kaine: Madam Speaker, I would like to take a point of order on this issue, too.

MADAM SPEAKER: Yes, of course, Mr Kaine.

Mr Kaine: If Mr Berry had merely passed the question to Mr Connolly, your explanation would have fitted the case. But that is not what he did; he first of all answered the question. I do not believe that it is in the spirit of parliamentary procedure anywhere for two - - -

Mr Connolly: Now he has given too much information.

Mr Kaine: I do not intend to enter into a debate with Mr Connolly.

MADAM SPEAKER: Please do not.

Mr Kaine: I do not expect, either, to have to hear him answer a question when the Minister to whom it was addressed has already given a Mickey Mouse answer to it. We might as well pass it around and let the other two Ministers have a go as well, if that is the procedure.

MADAM SPEAKER: If you feel that the answer has been given, I will uphold that point of order, and we will go on to the next question.

Calvary Hospital - Specialists

MS SZUTY: Madam Speaker, my question without notice is to the Minister for Health, Mr Berry. In response to questions by me on the notice paper regarding the operation of Calvary and Woden Valley hospitals, the Minister stated that Woden Valley staff had more ready access to support from specialists and subspecialty registrars and that there were limited specialists on call to Calvary. Can the Minister inform the Assembly as to Calvary's standing as a public hospital and explain why residents of the northern suburbs of Canberra are expected to use a facility that is less well resourced or face an extended journey to Woden in emergency situations?

MR BERRY: This is the attempt to create the impression that the people on the north side of Canberra are worse off than the people on the south. I have to say that I would resist any speculation that that was the case. Very clearly, this city now has a principal hospital, if you want to call it that, a major hospital which is aimed at providing all of the centralised specialities which a city of this size ought to have. The hospital system - - -

Mrs Carnell: It is all the Liberals fault.

Mr Humphries: We are to blame somewhere, I am sure.

MR BERRY: You are to blame; there is no question about that. For anything that goes wrong you can take the blame any time, because you deserve it.

Mr Kaine: You have been the Minister for some time. How about you taking the blame?

Mr De Domenico: Everybody believed you. We will all meet in the phone box - - -

MADAM SPEAKER: Order, please!

MR BERRY: Are you right? In any system where health services are provided we have to ensure that there is the most efficient use of resources. As a result of the closure of the Royal Canberra Hospital, which was initiated by the Liberals and - - -

Mr Kaine: And supported by you, Minister.

Mr Humphries: You actually did it.

MR BERRY: It is always great fun to come in here, because you can always get a cacophony from the people opposite, especially when there is a bit of a burr under their saddle, as there always is when it comes to health.

There is a system of hospitals in the ACT, one of which we are historically bound by, and that is the provision of services from Calvary Hospital by a non-government organisation, the Little Company of Mary. It is a hospital which, in conjunction with Woden Valley Hospital, provides a complete range of services to the people of the ACT. People from the south side can use Calvary Hospital if the services that are provided there are suited to their particular needs, as is the case in relation to anybody on the north side or any other side of Canberra. This is a collaboration of medical services and hospital services aimed at providing services to all of Canberra, not for just one part of it.

Preference to Union Members

MR DE DOMENICO: Madam Speaker, my question without notice is to the Minister for Industrial Relations, Mr Berry. Can the Minister assure the Assembly that the Labor Government has no plans to implement part 3.1.2 of the Labor Party's policy platform, which reads that an ACT Labor government will "legislate to provide that only union members benefit from improvements in pay and conditions won by trade union representation, and that unionists be given preference in filling vacancies and in promotions"? Is the Minister prepared to explain to the Assembly, and through it to the people who elected him and his Government, why this policy is in existence?

MR BERRY: That is out of order, you know.

Mr Humphries: Oh, he is going to take a point of order, is he?

MR BERRY: I do not have ministerial responsibility for the Labor Party. I can say to you that they are matters of policy which were generated within the Labor Party and they are taken into account from time to time as the Government moves along on the implementation of its platform. I suppose it depends on what is achievable in the circumstances. The policies which are set out in the platform are policies which we know about and which we were elected upon. It is not on our legislation program, but it is a policy that we will take into account as we develop our strategies throughout this period of government.

MR DE DOMENICO: I ask a supplementary question, Madam Speaker. Can the Minister assure the Assembly that currently, secretly or otherwise, no preference exists for the promotion of members of the ACT Government Service who are members of unions?

MR BERRY: It is pretty clear that the promotion system within the ACT public service is a merit system. It is a silly suggestion.

Health Services - Goods and Services Tax

MS ELLIS: Madam Speaker, my question is directed to the Deputy Chief Minister in his capacity as Minister for Health. What effect would the imposition of a goods and services tax have on the delivery of health services in the ACT?

Opposition members interjected.

MR BERRY: The members opposite laugh, but they obviously do not recognise the serious effect that not only the GST but the entire Hewson package will have on the community in the ACT.

Opposition members interjected.

MADAM SPEAKER: Order, please! The members on my right will desist from interjecting.

MR BERRY: I want particularly to point members to inequalities which occur in the health of Australians. My comments are taken from a paper described as "Enough to make you sick - How income and environment affect health". It is the National Health Strategy Research Paper No. 1. It is dated September 1992. It points out that disadvantaged groups have the poorest health. They make the most use of primary and secondary health services, but they are the lowest users of preventative services. Their poorer health status largely explains their greater use of primary and secondary health services. A whole range of issues are dealt with in the paper, but a few that I might mention will be of interest to members. It says:

> Compared with children of high socioeconomic status, disadvantaged children have higher death rates from the following causes: hypoxia, sudden infant death syndrome, accidental drowning ... disorders related to short gestation ... motor vehicle traffic accidents ...
>
> Compared with adults of high socioeconomic status, disadvantaged adults have higher death rates from the following causes: pneumonia ...

This will get worse under the Hewson package because what it sets out to do, firstly by way of the regressive taxation plans of the Federal Liberals, is to reduce the spending power of lower and disadvantaged groups, particularly when it comes to the purchase of health services.

Mr Humphries: Health is exempt from the GST. Are you thick or what?

MR BERRY: Here he goes. They intend to create a class system in health services. They want to have a hospital service for the rich and the well off, and another hospital service for low income earners. The ones who can afford expensive private hospital insurance, the ones whom the Liberals ask us to subsidise, will be able to get into the hospitals for the well off and, of course, that is what - - -

Mrs Carnell: No, that is now.

Mr Humphries: They certainly cannot now; that is for sure.

Mr De Domenico: There are 1,972 Canberrans on the waiting list.

MADAM SPEAKER: Order, please! Members, I remind you of the standing order which asks you not to interrupt.

MR BERRY: It is a very important question that Ms Ellis asks. We need to focus on the difference between us in these matters. The GST and all of the grab bag of glitzy bits and pieces that go with it from Dr Hewson and his cohorts will result in a lower economic status for a lot more people across Australia. This will mean that they will have less access to health services. It will also mean that they will be caught in a poverty trap. These people do not seem to understand or do not seem to want to understand that sort of thing because - - -

Mr Kaine: And you do not believe what you saying, either.

MR BERRY: I firmly believe that the Hewson package will be a disaster for Australia.

Mr Humphries: Explain how.

MR BERRY: It will impact on the ACT in the ways that I have just described. It will force people who cannot afford it into expensive private hospital care. It will reduce their standard of living. It will entrap more people in the poverty trap.

Medicare Agreement

MRS CARNELL: My question is to Mr Berry, the Minister for Health. Is the Minister aware that his Federal counterpart, Brian Howe, is taking the Commonwealth-State Medicare agreement back to Cabinet next Monday because the States that have refused to sign the agreement have correctly identified funding shortfalls and problems with the bonus pool split? The shortfall for the ACT is in excess of $20m. Is the Minister now prepared to admit that committing himself to sign the mark I agreement was not in the best interests of the ACT and may have badly disadvantaged the health of Canberrans?

MR BERRY: No; because I will be negotiating it, not a Liberal. I will be negotiating the detail before the signatures end up on the piece of paper. It has to be signed by the middle of next year. I have made it clear that we are keen to sign the Medicare agreement because on its track record alone it will do better than what Hewson has proposed. It will do much better than what Hewson is proposing for Australia.

Mr Kaine: We are not talking about Dr Hewson's proposals; we are talking about your Government's proposals.

MR BERRY: These people need to understand, if they can stand by without interrupting for just a few moments and if they want these questions answered. It is all right for them to ask them, but not all right for them to listen. If you ask silly questions, expect a tirade about the stupidity of some of the things that you have proposed in your policies. You will just have to cop it. What I have said, very clearly, is that we are keen to sign the Medicare agreement because we know that it will produce for ordinary Australians and we know that on its track record alone it is better than anything that has been promised by the Liberals.

In relation to the signing of the agreement, it has to be signed, as everybody knows, before the middle of next year. There are some fine details that have to be negotiated and the people of the ACT will be better off with somebody from the Labor Party negotiating, rather than somebody from the Liberal Party. All that the Liberals have done in relation to the Medicare agreement is to try political stunts and try to force the other parties into a position where they would agree that there ought to be some sort of subsidisation by ordinary taxpayers for the excesses which have been proposed by Hewson; that is, the attempt to force people into a different sort of health system which is intended to look after the interests of the rich, those who can afford to pay for the expensive private insurance. Let us stop kidding ourselves.

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

DEATH OF MR BILL MASON

MR MOORE: Madam Speaker, I move:

> That the Assembly expresses its deep regret at the death of Mr Bill Mason and tenders its profound sympathy to his widow and family in their bereavement.

I first met Bill Mason when he ran for the Australian Democrats in the First ACT Legislative Assembly election. During that time it became very obvious that Bill was single-mindedly in favour of a reform of the Australian and ACT taxation systems. As a Georgist, Bill favoured doing away with all taxation on productivity and replacing the taxation system with a tax on land. Bill favoured this system because of his broad awareness of position in the community and those who are impoverished in our community. Bill had a vision for an ACT and an Australia with no unemployment; for an equitable Australia where the very wealthy paid tax on speculation, rather than a tax on people's work.

In a recent letter Bill suggested an equitable system of replacing, say, a $74m payroll tax with a one per cent land value tax which would reap $7.4 billion, saying that it would have the following advantages: An immediate drop of $74m in annual ACT production costs; lower prices of ACT goods and services; increased production and sales in and from the ACT; new businesses established or moving to the ACT without subsidy; more employment; increased incomes of employers and employees; lower and middle income home owners paying less tax, but the wealthy paying more; less poverty and public welfare expenditure; fewer bankruptcies; cheaper land near existing services; smaller mortgages and eventual lower interest rates; repopulation of inner suburbs; less new, costly, sprawling environmentally polluting destruction of public and private infrastructure; and a smaller public transport subsidy.

Bill Mason was one of those people who had a quite significant influence on my own thinking. What has become clear is that our current taxation system has not managed to provide the network available to tax the wealthy. There is no question that the very wealthy in our community pay the least tax, while those in the lower middle class carry the bulk of the weight of looking after the rest of the community. It is that inequity that Bill Mason was attempting to address.

As recently as in the last fortnight, Bill Mason telephoned from his hospital bed at John James to remind me of some of the advantages of the land tax system. I think most members here will certainly remember Bill Mason for his determination, if nothing else. We have begun to make a small transition in the ACT. There has been some transition towards land tax. A leasehold system, conducted appropriately, is a form of land tax. Our rates are a form of land tax. There has been an extension of the normal land tax from commercial business properties to residential business properties. The question facing us now is whether that form of land tax should continue as a method of taxing those who can most easily afford it, in order to provide work and services for those who can least afford them.

Bill Mason was a man whose vision for an equitable community was founded on a concrete system of redistributing wealth. As members of this Assembly, we should recognise the contribution that Bill Mason made to our thinking about social justice. We should take this opportunity to offer our condolences to his wife, Roma, and to his children, Christopher, Robert and Jennifer.

MS FOLLETT (Chief Minister and Treasurer): Madam Speaker, in supporting the motion of condolence which Mr Moore has moved to Mr Bill Mason's wife, Roma, and their children, I think that I speak for all members of this house when I say that Canberra has lost a respected citizen of the ACT. Bill Mason served his country well in war as well as in peace. His service in finance areas of public administration spanned government departments in the ACT and the Northern Territory.

Through the pages of the *Canberra Times*, he was well known for his views on taxation policies and other matters. I should say that over the years I have enjoyed a great deal of correspondence and debate with Mr Mason on taxation matters, and in fact I will miss that ongoing debate. Mr Mason was a prolific letter writer to the press. Hardly a week went by that the letters to the editor column did not contain a succinct expression of his opinion on quite a range of subjects.

Mr Mason always took an active interest in the world around him and, as Michael Moore has noted, he had strong political views. We all recall that he was a candidate for the Australian Democrats in the first ACT government elections in 1989. Bill Mason will be mourned also by the community groups in which he took an active interest. I join with others in this place in expressing the sympathy of the Government to his wife and to his family and friends, who all mourn his passing.

MR CORNWELL: Madam Speaker, on behalf of the Liberal Party I rise to support the motion moved by Mr Moore. I think I first met Bill Mason in the 1980s in the old Legislative Assembly, but I really got to know him when we were both fellow members of the Self-government Campaign Committee, which came into being shortly after 1986 with the abolition of the old Assembly.

Bill certainly felt very strongly about taxation measures, as Mr Moore has indicated. It was not a view that I shared; but I did share with him another commitment, and that was his very strong support for the whole concept of self-government for this Territory. He served with Trevor Kaine and me on the Self-government Campaign Committee. Although I do not think that we can claim to have enabled self-government to come to this Territory, I would like to think that some assistance was provided by that committee of which Bill was a very senior member.

I repeat that, as the Chief Minister has said, he was a very regular letter writer to the *Canberra Times* - sometimes successfully, sometimes not. I am sure that, with other members of this chamber, we received on occasions copies of some of his unsuccessful correspondence to the *Canberra Times*. He was also a fairly regular visitor to this building, with his representations in relation to the ideas and theories of Henry George. On behalf of the Liberal Party, I would like to reiterate that we join in the motion of condolence to his widow and family.

MR STEVENSON: Bill Mason was a remarkable man. He was remarkable for his dedication in working for the benefit of people, not for himself. He was remarkable for his knowledge of taxation reform. Many people here well understand what that was. He was also remarkable for his persistence. I spoke to Bill late last week from his hospital bed, and he did not talk about his illness; he talked about that to which he had dedicated much of his life. He was certainly a fighter in more ways than one. He fought the illness. He had some success, but finally he is no longer with us. I express my sincere condolences to his wife, Roma, and their children.

Question resolved in the affirmative, members standing in their places.

AUDITOR-GENERAL'S REPORT NO. 4 OF 1992
Report on ACT Board of Health - Management of Information Technology

MADAM SPEAKER: I present, for the information of members, the Auditor-General's Report No. 4 of 1992 - ACT Board of Health, Management of Information Technology.

MR BERRY (Deputy Chief Minister) (3.12): I seek leave to move a motion authorising the publication of the Auditor-General's report.

Leave granted.

MR BERRY: Madam Speaker, I move:

> That the Assembly authorises the publication of the Auditor-General's Report No. 4 of 1992.

Madam Speaker, this is a machinery motion which merely authorises the publication of the Auditor-General's report. I do not need to say any more.

Question resolved in the affirmative.

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

> That the Assembly takes note of the paper.

SUBORDINATE LEGISLATION
Papers

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

The schedule read as follows:

Casino Control Act - Casino Control Regulations - No. 26 of 1992 (S201, dated 11 November 1992).

Land (Planning and Environment) Act - Heritage Council (Remuneration and Allowances) Regulations - No. 25 of 1992 (S201, dated 11 November 1992).

Motor Traffic (Alcohol and Drugs) Act - Motor Traffic (Alcohol and Drugs) Regulations (Amendment) - No. 28 of 1992 (S209, dated 23 November 1992).

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): Pursuant to the Land (Planning and Environment) Act 1991, I present, again, leases in accordance with the circulated list.

The list read as follows:

Leases granted pursuant to the *Land (Planning and Environment) Act 1991* for -

Calwell, section 750, block 20; section 758, blocks 1 and 9
Fadden, sections 409, block 3
Kambah, section 101, blocks 1 and 5; section 103, blocks 19 and 20, and 24 to 26; section 104, blocks 6 to 8; section 105, blocks 1, 11 and 22; section 106, blocks 4, 5 and 9; section 107, block 1; section 118, blocks 15 and 16; section 119, blocks 1 and 17; section 120, block 6; section 121, blocks 1, 5 and 6; section 126, blocks 1, 3 and 4; section 139, block 8; section 155, block 12; section 162, blocks 1 to 4, 6 and 7, and 31; section 164, blocks 1, 2 and 4; section 165, block 2; section 168, blocks 1 to 3 and 6; section 175, blocks 9 to 11 and 13; section 176, block 12; section 180, block 1; section 183, blocks 1 and 6 to 8; section 184, block 1; section 185, block 5; section 186, blocks 2, 3 and 10; section 197, blocks 45 and 47
Phillip, section 26, block 2
Theodore, section 615, block 17,

together with executive statements.

MR WOOD: I assure members that we are taking action to correct this situation.

LAND (PLANNING AND ENVIRONMENT) ACT - WEST BELCONNEN ENVIRONMENTAL IMPACT STATEMENT
Papers

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (3.14): Madam Speaker, I present the evaluation report on the proposed plan for West Belconnen, together with a copy of the final environmental impact statement and the draft environmental impact statement for West Belconnen, an evaluation of public consultation on the West Belconnen environmental impact statement, and a full set of the public comments on the statement in accordance with the provisions of the Act, and I move:

That the Assembly takes note of the papers.

Madam Speaker, the assessment documentation includes the environmental impact statement submitted by the proponent, that is, the ACT Planning Authority. There is a deal of reading coming, folks; get into it. I have read every word and I expect you to. That might be a bit misleading. I had better be careful of what I say while I am on my feet. I have looked very carefully at it. It also includes the proponent's written report on public consultation, my evaluation report on the environmental impact statement and the report on public consultation, and a copy of each of the written comments received by the proponent in relation to the proposal.

The planning and environment legislation became operative on 2 April this year and this is the first environmental assessment being dealt with under the new process. Under the Act I am required to table in the Assembly a report which evaluates compliance of the EIS with the requirements of the Act and with any directions issued by me under the Act; includes any comment by me about the environmental impact of the proposal; includes reports of any meeting convened by me; and sets out any recommendations about the conditions subject to which the proposal should be approved. I am also required under the Act to table the evaluation report, together with copies of the EIS, any notices issued by me under the Act, and any report, comment or information submitted to me in relation to the assessment.

Mr Kaine: You said all that before.

MR WOOD: No, I did not. The West Belconnen environmental impact statement was submitted to me by the proponent, the ACT Planning Authority, on 21 August 1992, and George Tomlins, the Chief Planner, wrote to me on 16 October 1992 submitting an addendum to the environmental impact statement. My evaluation report recommends that the proposal be approved subject to certain conditions as outlined in section 6 of my report.

As members will be aware, this proposal relates to development for residential and related purposes of an area of land to the west of the existing settled area of Belconnen. The proposal originally contained five development areas - areas A1 and A2 adjacent to Higgins and Holt, area B adjacent to Macgregor, area C adjacent to Charnwood, and area D adjacent to Fraser. Following public concern, particularly in relation to areas A1 and A2, these two areas and area D were deleted from the proposal. The proposal, therefore, relates only to the areas designated as B and C.

I should note that in August this year I received a petition from some 1,400 existing West Belconnen residents concerned that the investigation of development of the three deleted areas, particularly A1 and A2, was not proceeding at this stage and expressing support for the retention of the three deleted areas. These residents expressed concern about the viability of their existing school, health, cultural and sporting communities and facilities. I wish to

assure those residents that this Government will continue, through its planning and urban renewal policies, to identify and develop appropriate residential developments that are pleasant environments in which to live and which make full possible use of existing infrastructure.

Due to the considerable changes to the initial proposal, the proponent was required to notify the public of the modified proposal and to extend the period for community consultation. Two-hundred-and-forty-one written comments were received. The proponent has prepared a detailed summary of all issues, as you can see, and has identified how these issues have been addressed. The assessment concluded that the major impacts of the proposal will be on equestrian facilities and users. I have identified in my report several specific measures to ensure minimum disruption to equestrian activity in the West Belconnen area.

The proponent has also shown that existing health and education facilities in adjacent suburbs have adequate capacity to meet any demand generated by the proposed development, with the exception of the possible requirement for the additional facilities of a preschool and community house. The ability to provide services to the area without major capital investment represents substantial savings to the ACT community. The proponent has identified that the cost of servicing the blocks for West Belconnen is substantially less than for alternative greenfield development areas. I am happy to report that the additional ecological and cultural heritage studies proposed by the proponent in the environmental impact statement and identified in my report as a condition of approval are already in the field and nearing completion to draft stage. These studies will lead to the identification of additional requirements to be incorporated into the detailed design phase of the proposal.

Madam Speaker, the documents I have tabled are part of a process that involves both statutory environmental assessment and a variation to the Territory Plan. The assessment material will form a background paper to the draft variation. Consultation on the draft variation to the Territory Plan in relation to West Belconnen has been completed, and I expect that the Planning Authority will submit the draft variation to the Executive within the next few weeks. As is the usual procedure, this will be referred to the Assembly's Planning, Development and Infrastructure Committee for inquiry and report.

Madam Speaker, I want particularly to recognise the enormous amount of work that has been undertaken by officers of the Planning Authority during the progress of this matter. The volume and quality of that work is evident as you look at these documents. I want further to acknowledge their dedication to that task. Madam Speaker, I commend this assessment and accompanying documents to the Assembly.

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

ESTIMATES - SELECT COMMITTEE
Report on the Appropriation Bill 1992-93 - Government Response - Ministerial Statement

MS FOLLETT (Chief Minister and Treasurer) (3.23): Madam Speaker, I ask for leave of the Assembly to make a ministerial statement on the Government's response to the report of the Select Committee on Estimates 1992-93.

Leave granted.

MS FOLLETT: I am pleased to respond on behalf of the Government to the report by the Estimates Committee on the 1992-93 Appropriation Bill. Before going further, I would like to thank the committee for its report. I believe that the detailed examination of government expenditures carried out by the committee has, as in previous years, made a strong contribution to open and accountable government. I would also like to express appreciation to Ms Szuty in her role as presiding member of the committee. Madam Speaker, I am sure all members will appreciate that this is a most time consuming and difficult task.

The committee's report produced 17 recommendations. I do not propose to deal with each one individually, as the Government has prepared a detailed response to each recommendation, which I have just tabled. The Government is appreciative of the committee's comments about the improvement in the format of the budget papers and in the timeliness and quality of explanatory notes provided to the committee this year. The committee also expressed the view that the standard of performance indicator measurement is steadily improving. The continued refinement of budget and budget related papers can only improve the quality of the committee's deliberations, and the Government will ensure that these improvements continue.

I would like to reassert my Government's full support of the view that the public should have ready access to information relating to the performance of all programs in the ACT Government Service. Just as importantly, I am concerned that such information is provided in a cost-effective manner and that duplication of information and effort in providing it is minimised. To this end, I note the committee's concerns relating to inconsistencies and overlaps in the budget papers, explanatory notes and annual reports, and I am confident that the quality and format of information provided next year will be an improvement on 1992-93, just as this year's was an improvement on 1991-92.

The Government supports the recommendation that corporate plans should be included in the material provided to future estimates committees. We also appreciate the need for timely advice to the committee on all corrections to documents in writing prior to the hearings. The Government also accepts the need for more detailed categorisation of administrative operational expenses and improved information on use of consultants and other external labour. To achieve this there is a need to develop a clear and simple system of classifying the sources of external labour. However, the Government also has an obligation to ensure that its administrative resources are used in a cost-effective manner. We have to weigh up the benefits to the Government and the public of having detailed information available against the cost of compiling that information.

The Government believes that it is inappropriate, in terms of justification and cost, to provide the level of breakdown in non-salary running costs sought by the committee for all items over $50,000, particularly in the context of materiality in a budget of over $1.3 billion. I believe the current level of expenditure detail provided in both the budget papers and the explanatory notes to be adequate for both control and review purposes. This does not preclude additional information being sought by and provided to the committee where the published information proves to be insufficient for specific purposes.

The issue of budget supplementation is treated very seriously by the Treasury and the Government. This is kept under constant review, to ensure equitable treatment of all programs. The Assembly has made a reference to the Public Accounts Committee on this matter and it can be assured of the Government's full cooperation. The Government will review the program and subprogram structure as suggested by the committee and is making considerable investment in improvements to the collection of staffing information. I also appreciate the priority which the committee acknowledges should be given to staff training.

In relation to the committee's recommendation for a review of the adoption unit, the Government does not believe that this would be appropriate at this time, particularly as the new adoption legislation now before the Assembly will impact significantly on the unit's workload and procedures. The committee has also made recommendations relating to your travel, Madam Speaker. These are matters which are determined by the Assembly itself and I believe that you have adequately responded to the committee.

Madam Speaker, the committee has expressed some concerns in relation to the provision of information by Ministers. I would like to stress the Government's commitment to the Estimates Committee process as an effective means of providing proper scrutiny of the budget process. I refute categorically any suggestion that any Minister was unhelpful in this process. I note in this regard that it is on the committee's record that the Minister for Health was able to provide responses to questions on notice within one-and-a-half days, well within the three working days timeframe set by the committee.

I am pleased that the Government is able to respond positively to most of the recommendations made. The Government's commitment to continuing improvement in public sector efficiency, to employment initiatives during a period of recession, to a careful and considered approach to urban renewal and to ensuring that the ACT is not encumbered with unnecessary debt, places the ACT in a financially strong position in 1992-93. These benefits will flow on into future years during the period of continued cutbacks in Commonwealth funding.

Madam Speaker, I commend the Government's response to the report of the 1992-93 Estimates Committee and I table my statement. I move:

> That the Assembly takes note of the papers.

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

> That the debate be adjourned and the resumption of the debate be made an order of the day to be debated cognately with the resumption of the debate on the order of the day for the consideration of the Appropriation Bill 1992-93.

INDUSTRIAL RELATIONS
Discussion of Matter of Public Importance

MADAM SPEAKER: I have received letters from Mrs Carnell, Mr Cornwell, Mr De Domenico, Mr Humphries and Mr Kaine 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 Humphries be submitted to the Assembly, namely:

> The continued neglect by the Follett Labor Government of industrial relations as an essential element of a micro-economic reform agenda.

MR HUMPHRIES (3.31): Madam Speaker, there has been some criticism in the past from those opposite that the Liberal Party does not always raise matters of sufficient gravity for consideration by the Assembly. If there were any such doubts, ill founded though they may be, I think that they are more than adequately answered today by the important matter that we have raised. This is a matter of enormous substance and importance - not just to the citizens of the ACT, but to all citizens of this country who know that without action on the question of micro-economic reform by every government in Australia, and indeed many other organisations and individuals, this country faces a bleak future. Nobody, Madam Speaker, except perhaps the most extreme or most dull in our society, would question the need for a commitment to a vigorous agenda of micro-economic reform in this nation. The changes that have taken place in the world marketplace over the last few years have rendered it imperative that we jettison many of the inefficiencies and outdated practices which we have inherited from our predecessors, especially those which our international competitors have seen fit, years ago in some cases, to abandon.

Eliminating waste and bad work practices was once just the rhetoric of conservatives in this country. Today it is the rhetoric and in many cases the practice of governments of all hues. The question before us today, Madam Speaker, is whether the Government of the Australian Capital Territory matches whatever rhetoric it might put forward about its commitment to a micro-economic reform agenda with action which actually complements that rhetoric. My contention today will be that in fact it does not. Madam Speaker, it is not just a matter of pride that we should be pursuing a more efficient and effective environment for our economy. It is not just a matter of improving procedures to allow companies or organisations to make large profits. It is a matter, quite simply, of survival for our nation and for our nation's future. It is a question of whether our young will have jobs at all, not just under particular circumstances.

I think we should consider the changes which are taking place in our world. Over the last five years a large number of formerly socialist economies have crumbled. Particularly in eastern Europe and in Asia, changes are taking place at an enormously rapid rate. Those necessarily weak, hidebound, inefficient economies which sheltered behind those societies in the past have now been dramatically altered and are in the process of changing very quickly. In place of those economies we now see emerging capitalist economies which are, admittedly, in many cases still very small and very weak but which are growing rapidly and which are almost completely free of even the level of government regulation and restrictions which some in this chamber would argue is necessary.

In one sense, Madam Speaker, that is very bad news for Australia, because what it means is that some of the industries in some Second and Third World countries, which in the past were no competition at all for Australian industry, are now very much competitive with our industries and are becoming more so. Countries which could not compete technologically with Australia are now doing so, very much to Australia's detriment. The essential message of a program of micro-economic reform is that we have to adapt to these changes or we will not merely welcome these new economies as fellows in the ranks of First World nations but rather exchange places with them.

A great deal of evidence has been put forward to support the enormous concern with which many face the future and the need for this sort of reform. It behoves us to mention a few examples. It takes five hours to unload a ship in Singapore or Hong Kong. It takes at least five days in Australia to do the same thing. As a trading nation, our ranking has slipped in terms of share of exports - - -

Mr Connolly: Our port in the ACT is the most efficient in the country; I can assure you of that. It falls within my transport portfolio, and it is excellent. You go down and talk to Captain Jolly on the lake, mate.

MR HUMPHRIES: I will go down to the Acton jetty and check that out. I have not seen any ships unloading there lately, Mr Connolly. Madam Speaker, as a trading nation our ranking dropped from thirteenth in the world in 1961 to nineteenth in the world in 1989. Compare our performance with that of a country such as South Korea, which had a world trade export ranking of ninety-ninth back in 1961 and today is thirteenth. It is not a very pretty picture.

In the Asia-Pacific region real GDP growth from 1980 to 1990 averaged 8.6 per cent every year. That is an average across the whole region. Economies of places such as Japan, Indonesia, South Korea, Malaysia, the Philippines, Singapore, Thailand, China, Hong Kong and Taiwan on average are two-and-a-quarter times larger than they were just 10 years ago.

Mr Lamont: And they are your models for industrial relations, are they?

MR HUMPHRIES: Our GDP over the same period of time averaged just three-and-a-half per cent growth and we are now only 40 per cent larger than we were back then, and we have 16 per cent more people.

I heard an interjection that this is a model we want to use in this country. Having recently visited some of those countries, I have to say no, I do not particularly want to see Australia go down those paths; but I do want to see Australia do one thing, and that is accept that we can do many things we do in this country far more efficiently than we do at the present time. If we do not accept the need to do that and do not embrace the need for change as an imperative, as an absolute essential, a sine qua non, for proceeding into the next century, then we will not survive comparisons with countries such as Thailand, Singapore, Malaysia and Hong Kong, because we will be considered to be of a lower rank than those countries, which will have had standards of living higher than ours and levels of production and efficiency higher than ours for some time by the time we reach that stage. Indeed, Madam Speaker, I do not need to say that countries such as Japan, quite arguably, are already well past us.

Madam Speaker, the question, of course, is to what extent our local economy, our local government, is meeting the challenge which I have described. This is a challenge every bit as real for each State and Territory government in this country as it is for the national Government. The task of making workplaces responsive to market pressures and not just to entrenched and outdated industrial precedents is a job very much for the second tier of government; indeed, it is arguably more for that tier of government than for any other tier.

What is the ACT Government doing? Here is the challenge we have set. How does the ACT Government meet that very great challenge? First of all, it does not meet it particularly consistently. In some areas we see realistic attempts in the correct spirit at change. In other areas we see absolutely no commitment, even in terms of rhetoric, to the sort of change which has to take place to make our region and indeed our national economy the sort that it must be to survive in the future. The ACT Government, Madam Speaker, I would argue, on this vital question, has no direction. It has no guts to tackle the difficult questions. It has no sensitivity to the real needs of people. It has, worst of all, no sense of priority. It demonstrates ineptitude across all areas of government.

Let us ask ourselves: Where is the ACT Labor Government's agenda for change? Where is its reform program? When has it come to this Assembly, for example, and said, "This is what we intend to do to make the ACT region an efficient place within the whole of the Australian economy"? I cannot recall it having done that. I can recall adherence to some rhetoric about this; but, particularly in the area of industrial relations, we have seen an absolute commitment on the part of the ACT Government to keeping things exactly the way they are. "We do not want change", they say; "We want an industrial scene which reserves and preserves the rights of those currently working in it. We do not want to see any change that might affect the performance of those industries, particularly if it affects the entrenched power of trade unions in our society. No, no, no".

In industrial relations and other areas of government we have seen little, if any, change at all. We have not seen even the commitment to change. On planning matters, this Government is jealous of the initiatives and the drive of private developers, people who want to do things better. It has no vision or policy for the development of Canberra in place of that. On social issues, it kowtows to the demands of minority groups on issues such as abortion, marijuana and pornography. On environment issues, it is most - - -

Mr Connolly: Mr Deputy Speaker, I take a point of order on the issue of relevance. This is a debate on industrial relations and micro-economic reform. I ask you to draw the speaker's attention to the relevant standing order.

MR DEPUTY SPEAKER: Mr Humphries, I am sure you took account of that.

MR HUMPHRIES: Yes, Mr Deputy Speaker. This is a MPI about micro-economic reform and, in particular, industrial relations within that. I would argue that there was some relevance there. Nonetheless, let us turn to some area where the Government's performance in industrial relations has been extremely poor.

Since the Minister raises it, let us look at urban services. The Minister at least has displayed the guts to want to put his head up above the barricades behind which the rest of his colleagues are hiding. Here comes the kiss of death, Mr Deputy Speaker. He wants to make some changes. He wants to achieve some level of reform which acknowledges the enormous sinkhole which ACTION constitutes at the moment and the enormous amount of money that is poured into that hole by the ACT community. He wants to see a better return produced for the ACT community as a result of that commitment.

How far has he got? That is the $64,000 question. Arguably, Mr Deputy Speaker, we have not seen achievements of any size. The Minister has announced a number of changes he hopes to achieve large sums of money from. That is what he hopes to achieve, but we have heard only in the last few months that the ACT Government is facing a serious rorting problem with people in ACTION taking sick leave and so on, with the result that we now have a very serious question mark over whether the Government can in fact achieve savings of the kind it has been talking about.

The fact is that this Government's promises are yet to be met and that isolated attempts in one part of the ACT administration are no substitute for a plan and vision across the whole of the ACT Government Service which will achieve the necessary micro-economic reforms. Mr Deputy Speaker, I am dismayed by the lack of commitment the Government has shown on this very important question. I think it behoves us to ask: Just where are we going? Just what commitments have been made? Can we achieve any real and long-lasting level of industrial reform in the ACT if we do not change the practices which apply in our workplaces, in particular industrial practices?

The Minister for Industrial Relations today was asked about workplace practices and in particular whether he would support workplace agreements of the kind outlined in the Jobsback policy. That at least, Mr Deputy Speaker, is a plan. It is a vision for doing something about the state of our country. I gave the Government a chance. I asked, "Where is your commitment? Where is your alternative vision for what is going to happen in this Territory?". The answer was, "We do not like the way you are doing things and we will be different. Somehow we will be different". It is just not good enough. It is not good enough for the people of this Territory or for the people of this country. Increasingly, Mr Deputy Speaker, they will reject empty rhetoric of that kind in favour of real action of the kind which Jobsback represents.

Some people have bleated in this chamber even today about attacks on working people and the working conditions of Australian workers. The fact of life, Mr Deputy Speaker, is that if we do not put the spotlight on those work practices we will find, in five or 10 or 20 years' time or more, that the one million unemployed we currently suffer in this country will be many more and the suffering will be much greater. We cannot continue to rely on temporary fixes such as casinos, floriades and so on, through the tourist industry, to save our bacon. We have to find permanent solutions - solutions which will give us the chance to face the future with confidence. We cannot afford to remain a mendicant community. We must embrace the future, and that means adopting the sorts of changes which are so important to making that future a reality.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (3.46): One of the things that we will not be doing, of course, is holding up as images of what might occur in the ACT countries such as the Philippines, Taiwan and Korea which Mr Humphries so proudly proclaimed as our competitors and examples for Australians to follow.

Mr Kaine: He did not say that. In fact, he said the opposite.

MR BERRY: He then went on to say, of course, "Whilst I hold them up proudly as competitors, I do not want it to happen here". It is yes, no, no, yes, no, yes, yes, no, no, yes, yes, no, slow, fast. It is more of that stuff. That is the sort of attitude that these people take. They have to learn to be clear with the proposal that they are putting to the community. In fact, what they are proposing is exactly the same as what Kennett is doing in Victoria - that is, taking a chainsaw to the wages, working conditions and living standards of ordinary Australians. What they promote is that this should spread across - - -

Mr Kaine: I take a point of order, Mr Deputy Speaker. Somebody jumped up a while ago and talked about relevance. The subject we are debating is the neglect by the Follett Labor Government of its industrial relations. We are not talking about Mr Kennett. We are not talking about New South Wales or about Western Australia. We are talking about the ACT and the Follett Labor Government. The Minister might be asked to remain relevant in his comments.

MR DEPUTY SPEAKER: Mr Berry, I would ask you to take note of those remarks.

MR BERRY: I have taken notice of them and - - -

MR DEPUTY SPEAKER: And be guided by them, sir.

MR BERRY: I will not be guided by them, thank you, Mr Deputy Speaker, because they are a load of old codswallop.

MR DEPUTY SPEAKER: I will decide that.

MR BERRY: I am drawing attention to the comparisons that can be made between what this Government has done, continues to do and will do in relation to micro-economic reform and what is occurring in other places. We will not hold up as champions of the sorts of things that we would like to see happen in the ACT the countries which were mentioned by Mr Humphries, because we know what goes on there. They are places of oppression in many respects. We have seen them on the television.

Opposition members: Ha, ha!

MR BERRY: They are places of oppression. Why do you not travel to the Philippines and find out for yourself? Travel around. You would probably stay at the top end of town and would not see it.

Mr De Domenico: Have you been to the Philippines?

MR BERRY: My word, I have.

MR DEPUTY SPEAKER: Order! This is not a travelogue. Can we get on with the debate, please?

MR BERRY: Mr Deputy Speaker, this Labor Government will continue to support the Federal Industrial Relations Commission and Industrial Relations Act because they have been designed to improve the standards of workers in the ACT. They have also been designed to fit cooperatively with a program of micro-economic reform across the country. That is why we will continue to follow our approach rather than the alternative which is proposed by the Liberals.

The Liberals, quite clearly - I have said it over and over again, but it needs to be repeated - would have a situation where living standards would fall. They would have a system where workers would lose power in the workplace and not be entitled to protect themselves.

Mr De Domenico: Wrong again.

MR BERRY: Here we go. "Wrong again", he says when I talk about the disempowerment of workers. The Liberals' policy states:

> Devolve responsibility for resolving local industrial problems to the workplace. In the first instance it will be the responsibility of employers and employees to resolve their disputes if possible ...

We heard what will happen in Victoria. That will be translated here. If you cannot get agreement you go your own way; that is, if the employer does not agree with the worker, "Nick off".

That is not the approach that will be taken by the Labor Government in the ACT. We will take the conciliatory approach. We endorse the role of the Industrial Relations Commission to settle industrial disputes by way of conciliation and arbitration, because it has served workers in Australia well. It will serve the people of Australia well in the future, because it will ensure that we achieve micro-economic reform. We will work cooperatively with the commission, rather than slagging off at it all the time, trying to take cheap political points and holding up competitors such as those developing countries mentioned by Mr Humphries as examples that Australia should follow. We will not follow that course.

Mr Humphries: No.

MR BERRY: You do hold them up as your international competitors.

Mr Humphries: They are.

MR BERRY: That is right; you put them forward as examples of competitors which we should be able to beat in the marketplace by implementing the industrial relations arrangements which exist in those countries. We will not.

Mr De Domenico: No, we did not say that.

Mr Kaine: We did not say that at all.

MR BERRY: No, you do not want to say it, because that is the hidden agenda. That is the way the Liberals operate. The Liberals lied to the people in Victoria and then stole their wages and conditions from them.

Mr De Domenico: I raise a point of order, Mr Deputy Speaker. I heard the Minister say that we will lie.

MR BERRY: You did in Victoria.

Mr Connolly: He said that the Liberals lied in Victoria.

MR DEPUTY SPEAKER: Yes, that is true, Mr De Domenico. It was not a reflection on anybody in this house, was it, Mr Berry?

MR BERRY: No, it was not. But it was true.

Mr De Domenico: Mr Deputy Speaker, I suggest that he withdraw that statement.

MR DEPUTY SPEAKER: It was not a reflection on anybody in this house. Mr Berry, would you continue your comments, please.

MR BERRY: I would not reflect on people, Mr Deputy Speaker - unless they deserved it, that is. In relation to micro-economic reform, I think a whole range of issues can be trumpeted as successes for self-government. They are successes for the Labor Party, but they are successes for self-government as well. They are not necessarily ordered in priority, but they are things that ought to be mentioned in the course of this debate.

The Workmen's Compensation Act has been substantially amended to facilitate administration of the Act. A review of workers compensation was initiated by the first Follett Government. That was necessary in the context of trying to achieve micro-economic reform in the ACT. It showed that some insurance companies were doing pretty well at the expense of ACT business. An ongoing review was carried out and the Insurance Council of Australia, to their credit, ended up supporting a 20 per cent reduction in recommended rates following the report which arose from the review. That was an important matter for the people of the ACT.

Mr De Domenico: That was done under an Alliance government, by the way, not under a Labor government.

MR BERRY: No. The review of workers compensation was initiated by the first Follett Government - a plug for the Labor Party, but a plug for self-government as well. You have been part of self-government in the Territory. You can take some of the credit, but not much. The Holidays Act was amended to ensure consistent and equitable treatment of all workers in the ACT. It worked well, and it works well.

Mr Kaine: Yes; until you ran into Boxing Day 1992.

MR BERRY: They bleed opposite.

Ms Follett: On a point of order, Mr Deputy Speaker: Standing orders 39 and 61 preclude members from continually interrupting the speaker. I ask for your protection of the Minister in his remarks.

MR DEPUTY SPEAKER: I would be happy to provide that. I remind members that there has been a bit of a free flow of comments in the chamber and - - -

Mr Wood: All from one side.

MR DEPUTY SPEAKER: No, not entirely, Mr Wood. I remind members that this is a matter of public importance that Mr Berry is addressing.

MR BERRY: I repeat that I always like to see the Liberals looking glum, because I know that I am doing my job. Never make them smile.

Mr Deputy Speaker, in occupational health and safety we have achieved a lot in the ACT - more than most. Since 1988, the private sector work force has increased by 20 per cent and the number of accidents reported to insurance companies is down by 25 per cent. We have introduced injury and dangerous occurrence reporting requirements to target more effectively ACT government injury prevention policies, introduced a number of codes of practice to improve safe working practices in industry and introduced a regulation requiring training of workplace health and safety representatives to improve safety in workplaces. These are all positive achievements which have been supported by sectors of business in the ACT, and rightly so. They opposed occupational health and safety legislation at its implementation, but supported it when they saw its effect. The results have been positive. All this is important in terms of micro-economic reform. Occupational health and safety is not only a good community health issue and a social justice issue but also an issue of keeping people out of our hospitals and making sure that workplaces become more efficient.

I mention some more changes. We have had progressive change in the wider industrial relations system through initiatives such as award restructuring and union restructuring at industry and workplace level under the Federal Act, which we support. Reductions in Commonwealth funding for the Territory based on the Grants Commission have meant that we have had to restructure the ACT budget. We have had to do it in a consultative environment with the trade union movement because, without that sort of environment, it would be almost impossible to achieve. Labor has a special relationship with the trade union movement and we are able to achieve - - -

Mr Humphries: Yes, corrupt.

Mr Lamont: I take a point of order on that, Mr Deputy Speaker. I ask that that be withdrawn. In fact, I believe that - - -

MR DEPUTY SPEAKER: You ask for a withdrawal?

Mr Lamont: Yes, I ask that the member withdraw that. Not only should he apologise, but the remark should be struck from the record.

MR DEPUTY SPEAKER: I am afraid I cannot rule on that, Mr Lamont; but I can ask for a withdrawal.

Mr Humphries: If members opposite feel that I have personally offended them - it certainly was not the intention - I withdraw any offence that - - -

Mrs Grassby: Yes. I am a member of a union.

Mr Humphries: I am not saying that you personally are corrupt, but the relationship is another thing. I will withdraw the remark for those opposite who are offended by it.

Mr Berry: You really have to withdraw it unequivocally. You cannot make those sorts of statements.

Mr Humphries: I withdraw it.

MR DEPUTY SPEAKER: Mr Humphries has withdrawn it. Please continue, Mr Berry.

MR BERRY: The Follett Government's approach to reform has been an example for many to follow. We have had cooperation rather than conflict. That is something that the Victorian people would really like now. They would like some cooperation with their Government, rather than the head-on, toe-to-toe approach which has been taken by Kennett and company.

Some examples of that cooperation are the Joint Council of the ACT Government Service and the ACT Government Occupational Health and Safety Council - something which was supported under the Alliance, it is true. The tripartite Occupational Health and Safety Council is a cooperative arrangement which, I am sure, would be walked away from if any Liberal tried a stunt such as that which occurred in Victoria. Nobody would cooperate with a government such as the Victorian Kennett Government, but these Liberals plan to supplant that sort of arrangement in the ACT. Of course, our Industrial Relations Advisory Council works very effectively with government. It is a cooperative arrangement with the trade union movement, and that is good.

We have worked to ensure that a cooperative and productive workplace culture continues to develop; that there are systems of best practice and continuous improvement; and, most importantly, that there are systems that do not exploit workers or that are based only on reducing wages and working conditions, because there is this social justice issue. All that the Liberals seem to be able to focus on is ripping off the wages and working conditions of workers. You cannot achieve micro-economic reform out there by yourself. If you think you can do that, you are living in a dark cave somewhere in the dark, distant past; you are troglodytes. What you have to do is to establish a trusting relationship. The Labor Party has been able to do that with the trade union movement. In fact, we were born out of the workers movement, and that is why we have that special relationship. We will continue to nurture that arrangement because of the positive results it can bring the people of Australia as well as the people of this Territory.

Mr Deputy Speaker, it is very clear that there has been no neglect by the Follett Labor Government of industrial relations; we are on the ball. We are also on the ball when it comes to introducing micro-economic reform in the ACT.

MR DE DOMENICO (4.01): Mr Deputy Speaker, there is no doubt that change is desperately needed in the ACT in our industrial relations system. However, this will never be possible while the Government capitulates to every whim of the trade movement. While the unions control the Government, changes cannot be implemented - changes that will benefit everyone, not just union members. Mr Deputy Speaker, recently we have had many examples of this Government's capitulation to the unions. For example, as highlighted by the former

Auditor-General, there were several illegal payments in relation to ACTION buses. That had been going on for some years. When this was brought to the Government's attention, the matters were taken to the Industrial Relations Commission and, behind closed doors, hundred of thousands of dollars of illegal payments were backdated.

Mr Connolly: Mr Kaine's committee said that that was the appropriate course.

MR DE DOMENICO: I will disregard the nonsensical outbursts by Mr Connolly, the trade union movement's best friend! No, it does not hurt. He is the trade union movement's best friend! Gee, they love him - especially the Transport Workers Union! Boy, do they love him! Where is Mr Berry when we talk about Mr Connolly? Gone again, just like the other night at the ALP meeting. That is the support that Mr Connolly and his faceless men have, Mr Deputy Speaker. So, let him interject long and often, please, and I will repeat that time and time again.

ACTION employees take sickies and organise golf days. Mr Connolly was aware of that too. These people still work for ACTION and, if ACTION threatens to withdraw sick day payments, the union threatens to go on strike under another pretext. ACT workers are coerced to go on strike by some people in town who want to talk about the New Zealand shearers. I know that every time New Zealand comes up Mr Lamont is inclined to interject. Just in case he interjects, let me quote the most recent figures from the Department of Statistics in New Zealand and also from *Australian Economic Indicators* and the *OECD 1992 Economic Outlook*. I quote:

> This, in association with a far stronger growth in the productivity of the business sector than for Australia, underpins New Zealand's relative economic future in a manner we have yet to see on this side of the Tasman. Since 1988, working days lost from strikes have fallen by over 72 per cent in New Zealand - in Australia there has virtually been no change.

Surely, Mr Deputy Speaker, there are other less destructive ways to demonstrate union solidarity. Then there was the garbage dispute. The workers voted to go back to work, but the strike went ahead - all over a few cross words between an employee and a supervisor. Then there was the crane drivers dispute, when the union movement held the building industry to ransom.

Mr Connolly: And the commission endorsed the union's action. They said that they were right.

MR DE DOMENICO: There he goes again - the union movement's best friend, the one they bucket every time he tries to do something positive. Come in again, Mr Connolly. Come in, spinner. Interject any time you like. Then we have today's bus stoppage.

Mr Connolly: Can I take that as an open invitation, Mr Deputy Speaker?

MR DEPUTY SPEAKER: Interjections are out of order, I remind members. That is not an invitation, Mr Connolly.

MR DE DOMENICO: Thank you, Mr Deputy Speaker, for your ruling.

Mr Kaine: He was complaining about the interjections a little while ago.

MR DE DOMENICO: That is right. Today's strike by the ACTION bus drivers is a case in point, Mr Deputy Speaker. They are holding up services to the community so that they can work out what savings they think they can afford in ACTION. People could be excused for believing Minister Connolly when he said that there could be savings of up to $10m over three years in ACTION. After all, he is the Minister responsible for running public transport in Canberra, but is he running it? It does not seem so, Mr Deputy Speaker, because the Transport Workers Union will let him know - after a few convenient stop-work meetings and perhaps after a few discussions by members who are on sick leave on the golf course - what cuts will be made, when and how.

Mr Connolly is a sensible and intelligent man. He wants to reduce the cost of ACTION; but, unfortunately, his party has other things in mind. What has happened to Mr Connolly from time to time is well documented. Every time he tries to do something about it he is bucketed by his members - mainly the Transport Workers Union, but also members of his own party, for heaven's sake, who sit across the other side of this table. He is bucketed because he happens to be in the wrong faction. Do not let Mr Connolly come into this place and talk about anything to do with industrial relations as far as his portfolio is concerned.

This brings me to the proposal to take some time off on 30 November in sympathy with Victorian union members. What Mr Halfpenny - I am sure people opposite know who Mr Halfpenny is - thinks about the situation in Victoria is very interesting. The Melbourne *Sun* this morning states:

> Trades Hall Council secretary John Halfpenny has admitted savings can be made to Victoria's education budget -

and here is the real killer -

> but he doesn't know how.

John Cain, not Mr Trevor Kaine, is also quoted in this morning's Melbourne *Sun* as saying that his Government should have won increased productivity from teachers. The *Sun* report reads:

> "We should have obtained from them improved work practices and not agreed to smaller classes and fewer teaching-contract hours".
>
> Mr Cain's senior adviser from 1982 to 1985, Mr Mike Richards, told the Sunday newspaper the teaching unions and former premier Joan Kirner "plundered the State Budget for education for years".

That is what Mr Cain's minder said. Mr Sheehan, until recently the Treasurer, then the shadow Minister for something, and the shadow Minister for something else after today - - -

Mr Lamont: Mr Deputy Speaker, I raise a point of order.

Ms Follett: Let him go.

Mr Lamont: Do you want to let him go?

Government members: Yes.

Mr Lamont: There is a question of relevance.

MR DEPUTY SPEAKER: I uphold the point of order. Maintain relevance to the matter before the Chair, Mr De Domenico.

MR DE DOMENICO: I was bringing to your attention, Mr Deputy Speaker, that the Chief Minister, although not smiling when she said so, said on radio on Sunday that she was in sympathy with the people of the ACT who wanted to go out on strike on 30 November in sympathy with their Victorian colleagues. The relevance, Mr Deputy Speaker, I submit to you, is in the fact that the Chief Minister herself - - -

Mr Lamont: I raise a point of order once again, Mr Deputy Speaker. He is actually debating your ruling. That is a reflection on the Chair and is absolutely outrageous.

MR DEPUTY SPEAKER: I do not regard this as debating my ruling. You are suggesting that it could be interpreted as a reflection on the Chair, Mr Lamont. I think that what we will do is ask Mr De Domenico to return to the matter before the chamber, which is - - -

Mr Lamont: I was concerned with your well-being, Mr Deputy Speaker.

MR DEPUTY SPEAKER: Thank you, Mr Lamont. Please continue, Mr De Domenico, on a relevant topic.

MR DE DOMENICO: I always do that, Mr Deputy Speaker. A lot has been said about what is lacking in what this Government has done. A lot has also been said by Mr Berry in particular, who is not here at the moment. The Liberal Party, on the other hand, has gone out into the community and listened to the businesses which create wealth in our community. These businesses are crying out for a reasonable approach from the Follett Government to allow them to get on with their jobs of making money and providing jobs. The Liberal Party, Mr Deputy Speaker, has gone to those people in the ACT and listened to their needs. The result is policy which is reasonable, balanced and logical and will encourage employers to employ people, allow growth and prosperity and bring back vitality into the Canberra community.

Mr Deputy Speaker, in summary, the Liberals' industrial relations policy does not abolish the award system. It sets up an alternative system that sits side by side with the existing Federal system. It does not cut wages and conditions, but encourages a system of remuneration tied to productivity. It does not destroy unions; it acknowledges unions' right to exist. In essence, the Liberal Party policy on industrial relations, Mr Deputy Speaker, is about choice in negotiating the most suitable employment relationship between employer and employee. It is about employment growth through flexibility as opposed to restrictive work practices, which even the Deputy Chief Minister this afternoon conceded. It is about sensible industrial relations practices.

Mr Deputy Speaker, the policy recognises the peculiar legislative and work force requirements of the ACT and encourages the creation of an industrial relations system that is both adaptable and flexible to meet the needs of ACT industry and its work force. Ironically, Mr Deputy Speaker, it behoves me to say that the business community, after six months of consultation with the Liberal Party, has agreed to the industrial relations policy doing all the things that I have said it will do. In comparison to that, we have a lack of activity, a sitting on the hands

attitude, by this Government opposite, going to the stage where even the Chief Minister said on Sunday, "Oh, sure we support our mates in Victoria and everybody has the right to strike", and so they have. Hopefully, Mr Deputy Speaker, the Chief Minister will also realise that, should any ACT government employees decide to strike on 30 November, they should not be paid for not being at work.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.11): It is really a pity that there are not more people present in the gallery this afternoon to be exposed to this extraordinary Liberal approach to industrial relations - this mad scatter gun of accusations and allegations that are made about various things that are alleged to have occurred in the workplace, with no coherence, with no logical approach - and to hear the nice soothing sentiments that are echoed. Mr De Domenico says, "We will not cut anyone's wages". How closely that resembles Mr Kennett the week before the election. "No workers will lose a dollar", said Mr Kennett. A couple of days later, out goes the leave loading, out goes holiday pay, out go thousands of jobs. The same day, the Liberal Party vote themselves huge pay rises and reintroduce the silver service in the parliamentary dining room. This is the Liberal approach to industrial relations. Treat the people like idiots, make all these soothing statements that no-one will be worse off, and then attack people's fundamental conditions.

Mr De Domenico seems to get some comfort from Mr Halfpenny being reported as saying that some savings can be made in the school system. I am sure we all agree that there can be savings across government. This Government is delivering. Mr Halfpenny says, "We do not know how to do it". Mr De Domenico seems to think that is some massive concession. The way you achieve cuts is to sit down, negotiate and work in cooperation. You do not just go in and sack thousands of people, shut down 50-odd schools, and carry on in that confrontational manner which is causing havoc in the Victorian community. I was in Victoria last week. I was having a morning coffee in the area near Spring Street where most of the Victorian public servants tend to work, and the faces on the street as people were going into work that morning were extraordinary - grim ashen looks because nobody knows whether Victorian public servants are going to have a job next week. Nobody can trust that Government. No-one can accept what they have to say. They have shown such bad faith that their whole process of negotiating with their work force has fallen apart.

One of the fundamentals about this Government's approach to industrial relations is trust with the trade union movement. We will from time to time have disagreements. We have had some fairly widely publicised disagreements. That is in the nature of things. But at the end of the day we will resolve those disagreements in the commission. That is what happened in relation to the much vaunted issue about allowances within ACTEW. One union disagreed with what we did in relation to those ACTEW allowances. They thought that I had taken the wrong step. I met with them beforehand and said, "Well, we have a disagreement here. We will resolve it in the commission". That is what has happened. That means that we can continue in good faith. What union could possibly negotiate with these people opposite who make these assertions that no workers' wages will be affected when they are looking for their vote, and then a couple of days later, let alone weeks after, in Victoria, by legislative fiat pushed through at 3 o'clock in the morning, chop off conditions that have been enjoyed for many years? That is not the way to achieve reform.

Since we have been in office we have been going about the hard work of achieving micro-economic reform. The Liberals often seem to think that micro-economic reform is some sort of mantra; that you just chant it from time to time and things change. It is not. It is very hard, nitty-gritty work. It involves rolling up your sleeves, getting down to the workplace level and working out lots of little changes. There is no sweeping "this is micro-economic reform" agenda. It is not a sort of five-year plan approach. It is extraordinary that the Liberals at the moment seem to have this dogmatic ideological approach that you have massive changes in work conditions and that is micro-economic reform. That is not the process. It is small changes at the workplace in order to achieve a more competitive workplace and better productivity.

We have been working on that constantly, compared to the approach that the Liberals had when they were in government - the old-fashioned Rip Van Winkle approach of the Liberals of masterly inactivity. Nothing happened; nothing changed. Look at the bus operations. Look at ACTION. Nothing changed, apart from the deficit increasing. We have been in office for 18 months and we delivered $2m in savings last year, we have already achieved $1m in savings this year in relation to the revised scheduling system, the RAN, the new network that came in in July, and we are working to achieve another $1m to get to $4m in two years. That is significant change. That represents runs on the board for this community. We have set ourselves a very ambitious target of $10m, but I am confident that we are going to deliver on that. I am confident that we are going to achieve results.

A question was asked in question time by Mr Cornwell that the Liberals did not seem to want to hear the answer to. It was about what happened with the buses this morning. What happened was that a press release went out which warned travellers that between 9.00 am and 12 noon they could expect disruptions. The meeting itself lasted an hour or so, but the workers took time to go to the meeting place and to get back to the depots.

Mr Lamont: The same thing that occurred under Mr Kaine.

MR CONNOLLY: Of course. So, we had, by agreement with the union, a paid stop-work meeting. I will concede that. It was a paid stop-work meeting, because we have asked that organisation to undergo massive change.

Mr Kaine: So, you are going to pay them every time they go on strike.

MR CONNOLLY: We have already achieved significant change, but to get to that $10m we are going to need to achieve massive change at the workplace and we need to take that workplace along with us. So, it was important that we have a paid stop-work meeting in order to discuss those issues. The outcome of that paid stop-work meeting this morning was very encouraging. The drivers agreed that their nominated representatives would receive a mandate from the drivers to work with government on a micro-economic reform agenda with management. They agreed that they needed to get further details from management. They needed to see more of precisely what we were proposing, they wanted to play a greater role in the decision making and they wanted more consultation. That is fine.

The significant thing is an agreement by the drivers that their representatives, their delegates, work with government to achieve these changes and an indication from the drivers that they think that this matter can be advanced without industrial disputation. So, there was a paid stop-work meeting in order to put before the drivers the sort of change that government is expecting from them and to get a mandate from the drivers for their representatives to work through that process of change. We will not agree on every issue. It would be extraordinary if we did. But we will continue to work with the workplace - the drivers and the workshops - to achieve change and reform. That is a most appropriate process.

We have also taken some drivers and some mechanics off line and had them working full time on this process of change. But I am sure that I can continue to report back to this Assembly that we are making progress in ACTION - progress that was conspicuously absent under the former Government. Just look at the Advance Bank *Trends* magazine.

Mr De Domenico: Last Friday week.

MR CONNOLLY: It was the edition before, in fact, Mr De Domenico. A graph showed the deficit continuing to increase and suddenly turning around in the last 12 months. That is a significant achievement of this Government. There was an interjection, "Will they always get paid when they go on strike?". No. The basis of going on strike is that you withdraw your labour, and you expect not to get paid. That happened on those occasions when disputes occurred. But it is appropriate from time to time for management to say, "Workers, we think there are issues of such importance coming up, that will affect you so greatly, that we should have a paid stop period for you to consult with us". That is the hallmark of this Government. We will deliver results on that.

I should refer to the so-called illegal payments that were endorsed by the commission and that Mr De Domenico seemed to think were some sort of behind closed doors deal that was done last year between the Government and the drivers. The only problem with that, Mr De Domenico, is that that process was highlighted by the Public Accounts Committee, which noted that it was an appropriate course of action. The suggestion that this was some sort of dirty deal done in a back room is rather inconsistent with the Public Accounts Committee chaired by your own leader, which noted that appropriate action had taken place. The commission thought those payments were appropriate, and they were retrospectively validated. The ACTEW issue was one where the commission said that the claimed payments were not appropriate, and they were not validated. Madam Speaker, any suggestion to the contrary is a furphy that needs to be nailed.

I would like to go beyond ACTION, because that is the area that in the past I have spent most time on. With DUS and the recycling plant at the Belconnen tip, a significant change has been achieved through negotiation. The workers there run across a range of unions. There is no demarcation. We are able to move workers through that line without any problems about which union they are members of. There has been significant change across the whole of the ACT workplace. We are achieving lots of reforms on the ground which will lead to a far greater level of productivity. We have the results, not the rhetoric.

MR KAINE (Leader of the Opposition) (4.21): This is, in fact, a genuine matter of public importance, because I believe that it is a question of survival for our nation, as well as for the ACT, that our means of production be marshalled and better used in the interests of our society than they have been in recent years. As part of that, any mindless opposition to reform or change, no matter how beneficial it might be, simply cannot be tolerated. The kind of mindless, lemming-like actions currently being taken on knee-jerk decisions of the trade union officials across Australia, condoned by some unthinking Labor politicians such as our own Chief Minister, simply cannot be permitted to take place in today's world. There is too much at stake for that kind of knee-jerk, off the top of the head reaction.

Mr Berry: You would put them in gaol; that is what you would do.

MR KAINE: What would you do? The answer is nothing, as usual. Philosophies of the Left that may well have been justifiable in the 1920s and 1930s have outgrown their usefulness, and I submit that they have outgrown their relevance in today's world. We cannot, as a society, simply afford to allow some of those outmoded philosophies and concepts to govern our outcomes. By that I mean such concepts as those often expressed by the Labor Left over the road here about the masses being exploited by the capitalists. That was last century. I would like our Labor opponents across the floor here to come into the twentieth century and understand the world that we live in today. It is not like that, and it has not been like that for a long time. There are very few people in Australia, I believe, that maintain that that is the case.

Madam Speaker, the ACT Government must look at general worldwide conditions that impact on the ACT, just as they do everywhere else, and they must look at our own local circumstances, and from that develop a strategy to carry our community into the twenty-first century in conditions of financial security. If they do not want the rest of Australia to come along with us, that is another matter. But I am more concerned about what is happening here, and I am concerned about what this Follett Government is failing to do at the moment.

The vacuum that currently exists in the Follett Government's policy portfolio simply has to be filled. There is a vacuum when it comes to industrial relations and how to organise ourselves to move into the twenty-first century with some security for ACT people. Mr Berry, the so-called Minister for Industrial Relations, as expected, rejects this idea. He will hide behind what the Commonwealth Labor Government does. He says, "We cannot be out of step with everybody else, so if everybody else is screwing up their economies we have to do the same". The evidence suggests that for the last 10 or 15 years Labor governments across Australia have been doing just that. Just have a look at Victoria. Have a look at South Australia. Have a look at what Nick Greiner inherited in New South Wales a few years ago. Have a look at what is happening in Western Australia.

We cannot any longer be hoodwinked into thinking that this 10-year-old tired Labor Government at the Federal level has any solutions to our problem. They have created the problem; they certainly have no solutions to it. Nor, I submit, does our local Labor Government. We will see no initiatives, no action, from this Minister and this Follett Government on this issue, just as with all the other major issues that are on the table. Mr Berry says that things will be okay under Labor. He does not say how. He does not say what

he is doing or what he has done to make it so. He continues to talk - and he did again today - about what he will do. Maybe at some time in the future he will do something to fix the situation. I think we are entitled to ask and the community is entitled to ask when.

A few weeks ago I asked Mr Connolly a couple of questions on notice about what he had done to assist the development of the private sector - that was the general thrust of my questions - something which this Government pays lip-service to. He wrote to me after a lapse of some weeks and he said, "It is a matter of public record". That was his answer to my question. I could not find anything on the public record, Madam Speaker, and that is why I asked him the question in the first place.

Mr De Domenico: Was it Mr Connolly or Mr Berry?

MR KAINE: It was Mr Connolly. Mr Connolly is learning bad habits. I could not find anything on the public record, so I asked him the question, and that is what he tells me. But of course, like with Mr Berry, his answer simply avoids the question. That is the name of the game. Do not address the question; just avoid it. That is exactly what Mr Berry has been doing today on the question of industrial relations.

Madam Speaker, this Government has lost its credibility, if it ever had any. It is copping out. It has lost its plot - again, if it ever had one. Its stand on industrial relations goes to the very heart of what the Labor Party is about these days. It runs agendas that are more to do with dividing Australians than bringing them together. Hence the public debate about republicanism. Do not let us deal with the industrial relations questions; do not let us look at the economy. Let us get a fight going about whether we want to be a republic or not. That is what they are on about.

The Government does not like the notion that people can think for themselves. Union bosses have to tell them what to think and what they must say. If they do not toe the line, they are in a good deal of trouble. This Government supports that line. This Government supports that approach from the trade unions. The days of this kind of dictatorial approach are over, and they had better get themselves into the twentieth century and ready for the twenty-first century, because the community is not going to accept that approach any more. Employers and employees having the option to sit down and work out their own arrangements is the way we are going. Even Mr Berry concedes that, although he tries to make some artificial distinction between their policy and ours. In fact, they are identical in that respect.

Mr Berry talked about the Liberals destroying the standard of living of the workers. Mr Berry must be the only person left in Australia who has not yet realised that we have been living beyond our means for years in this country and that we have to scale down and accept a standard of living that is lower than we have had. But Mr Berry is not going to concede that. He is going to support the unions in squeezing yet more privilege out of our society while the rest of society and the economy are going backwards like a fast train. He is going to squeeze more out of it through the trade unions and keep trade union officials happy. That is the name of the game.

Mr De Domenico: Not the unemployed.

MR KAINE: Exactly. Do not worry about the million unemployed. Just look after the trade union officials and make sure that they are in good shape. Madam Speaker, the world has realised that we have to change direction - everybody except Mr Berry and perhaps Mr Connolly. That has been manifestly obvious in Victoria, where there was an absolute landslide against Labor and its policies. I do not know how they can lift their heads up after that and pretend that their policies stand scrutiny. They do not stand scrutiny.

Mr Berry talks about a mandate. We have a government in Victoria that was given a clear mandate, and the minute they try to set about rectifying the situation Mr Connolly and his mob get up and support the trade unions that go on strike and say, "We do not want any change. We do not want the thing fixed. We do not want jobs for the people who are unemployed - as long as our privilege remains".

Mr Lamont: I take a point of order, Madam Speaker. It would be appropriate if the Leader of the Opposition were reminded of the fact that the Chair is at that end of the chamber and that where he is addressing his remarks is the back.

MADAM SPEAKER: I am sure he is delighted to have heard that bit of advice, Mr Lamont.

MR KAINE: Madam Speaker, when I soon become Chief Minister, he can be Leader of the Opposition and then he can speak for himself. Madam Speaker, I think the facts speak for themselves. There is a crying need for change in this country. Everybody recognises it, except Mr Berry and Mr Connolly, and perhaps Mr Lamont. I put him in there now because he is going to argue against this as well. It is the responsibility of the Follett Labor Government in the ACT to determine its policies, its strategies, and tell us what they are and how they are going to get us out of the hole that we are in here and turn this community back into a prosperous community so that we can go into the twenty-first century with some confidence. They have not done it yet, Madam Speaker.

MADAM SPEAKER: The discussion is concluded.

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

MRS GRASSBY: I present report No. 18 of 1992 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I seek leave to make a brief statement on the report.

Leave granted.

MRS GRASSBY: Report No. 18 contains the committee's comments on five Bills, five pieces of subordinate legislation and one government response. I commend the report to the Assembly.

DISCHARGE OF ORDER OF THE DAY

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services): Madam Speaker, I seek leave of the Assembly to move a motion concerning the discharge of order of the day No. 13, executive business.

Leave granted.

MR CONNOLLY: Madam Speaker, I move:

> That order of the day No. 13, executive business, Prostitution Regulation - Paper - Motion to take note of paper, be discharged from the Notice Paper.

The reason for this is that last week in private members business the Assembly debated the recommendations of that paper and passed, with amendments, a Bill relating to prostitution. It is therefore appropriate that the motion to take note of the discussion paper no longer be before the Assembly and be discharged.

Question resolved in the affirmative.

BUILDINGS (DESIGN AND SITING) (AMENDMENT) BILL (NO. 2) 1992

Debate resumed from 18 November 1992, on motion by **Mr Wood**:

> That this Bill be agreed to in principle.

MR KAINE (Leader of the Opposition) (4.32): Madam Speaker, the Liberal Party supports this Bill, which is consequential legislation to permit the exemption of minor building works from the regulatory processes currently in place in the ACT. We recently passed amendments to legislation to allow exemptions for minor work such as garden sheds, gazebos, greenhouses and garden walls and gnomes. Where those works are carried out on private property by competent persons, the Assembly agreed that the process of taking out building permits, submitting plans and inspections and the like was unnecessary. This amendment will enable the Government to put that into effect, and we agree with it entirely.

Madam Speaker, in our view, amendments which add to individual freedoms, as long as they have no community or social detriment, are desirable and we will support them. This amendment enables residents to pursue their private business and activities without the intrusion of government regulation and oversight - a most commendable outcome. I encourage the Minister and other Ministers to closely examine all legislation to identify other areas and additional freedoms that might be brought into being. The Liberals would support those, Madam Speaker, just as we support this one. We support this Bill without reservation.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ELECTORAL BILL 1992

Debate resumed from 14 October 1992, on motion by **Ms Follett**:

That this Bill be agreed to in principle.

MR HUMPHRIES (4.34): Madam Speaker, I do not need to tell the Assembly what a significant and important piece of legislation this is. Members of the Assembly were all involved in one way or another in the events that led up to the introduction of this legislation, obviously some more than others; nonetheless, the importance of the occasion has to be noted. This is the first of two pieces of legislation, I understand, that will be brought forward by the Government to put in place an electoral scheme for the ACT which reflects the wishes of the population of the ACT as outlined at the time of the referendum on 15 February this year. That referendum, as members are well aware, overwhelmingly indicated the support of ACT electors for a new electoral system, a Hare-Clark electoral system, for use in the ACT. That is a system which entails the drawing of boundaries for the purposes of those new Hare-Clark electorates.

The Government has taken the position, and it seems to me a sensible position, that it is important to proceed as quickly as possible with the process of having the boundaries drawn for those new electorates, even though details of voting and counting under the Hare-Clark system are yet to be put in place in legislation. Although it would have been nice to have dealt with the whole package at one time, I think this is not an unacceptable approach, given the importance of resolving that other question as quickly as possible.

Obviously, all of us who sit in this place will wish to know where we stand, or where we hope to sit, under the new arrangements, and we will therefore be looking at seeing how that new system affects us. I think it is also important, Madam Speaker, for us to be able to know with some certainty that we will have responsibilities to particular localised parts of the ACT. There was great discussion during the last campaign about the need to make candidates and members of the Assembly more responsible to local communities within the ACT and not consider that the ACT is a single, large, amorphous body of people which has no distinctions as between one part of the Territory and another in terms of the aspirations and needs of the people who live there. This process of setting in place electorates will allow us, as members of the Assembly, a much greater chance of responding directly to the needs of people in our own chosen areas which we represent.

Madam Speaker, I have been reassured by some comments that the Government has made recently about its desire to proceed to the next stage of enacting the Hare-Clark system as outlined in the referendum options description sheet which was put before the people at the time of the last referendum. I think Ms Follett said, in response to a question I asked the other day, that any rumours to the counter effect had been started by me. I think there was some exaggeration in that. Certainly, I have heard many things which - - -

Mr Moore: Only a little bit.

MR HUMPHRIES: Only a little bit perhaps. Things came back to my ears which were not what I had ever imagined I would hear, but I accept what the Chief Minister has said to the house - I am sure she would not deceive it - and I therefore think it is appropriate that this legislation be acknowledged as the first of two steps in the progress we make towards putting in place that important system.

There have been discussions, as members will know, about changes to the Bill. I give notice that I will be moving a series of amendments to the legislation which provide, I believe, for greater independence for the ACT Electoral Commission and for the commissioner who will assume the primary role of conducting elections in the Territory. The commission that the Government has employed in this model is similar to others that have been used elsewhere, but with some adaptations which may or may not be appropriate to the circumstances of the ACT. Certainly, the process of drawing boundaries is similar to processes which have been used elsewhere and which I think we in the ACT can pick up and reasonably employ here. It is important for us to be able to get community input on the way in which those boundaries are drawn. It is important for people to be able to contribute to the process of identifying the factors which make up a community.

In particular, I draw members' attention to clause 30 of the Bill, which sets out those very important factors which will determine the boundaries of new electorates. I understand that there is an amendment coming forward from Mr Moore which will expand the tolerance provided for in clause 30 paragraph (b) to provide for a greater range in the relevant size of electorates in the Territory in relation to their allocation under the Hare-Clark formula, which, of course, provides for uneven sized seats, and to expand that tolerance from 4 to 10 per cent. The idea of that is to provide as far as possible, at least in intention, that townships in the Territory are not divided arbitrarily between two or more electorates. Paragraph (c) of that clause also contains many important factors which the commission will take into account when deciding on how boundaries will be drawn.

Some of those concepts referred to in clause 30 are pretty amorphous. When I talk about or I consider, for example, the community of interest which exists in, for example, Tuggeranong, I know what I am talking about. I know what I mean by that. I am sure that Ms Ellis, for example, knows what I mean when I talk about that. But it is very difficult to define; it is very difficult to actually put your finger on. The factors which make that up and which constitute that criterion will be a matter of some challenge, I think, to the ACT commission when it gets down to the business of actually drawing those boundaries. Nonetheless, hard to define as it may be, we all know that it exists and we have to give voice to that kind of community of interest by making sure, as far as possible, that we retain electorates that cover, neatly, if possible, townships in the Territory. The redistributions which those criteria will be applied to will occur after each ACT election. That, I think, is a timely interval at which to make those sorts of decisions and I support the concept of keeping those boundaries under review.

I believe that the structure we put in place with this legislation will be such that the sort of manipulation of electoral arrangements that we saw in, for example, Queensland in recent years will not and cannot be repeated in the ACT. All in this place would not like ever to see the drawing of boundaries become an issue

of serious concern to the ACT electorate, such that it was considered that unfair or corrupt boundaries were being drawn. I believe that, if we are to avoid that, this legislation is a very good first step.

There are other things I will say about this Bill when we come to debate the amendments. I am pleased to say that we have managed to agree on most of the amendments. In particular, I think that we have reached agreement about retaining the services of technical experts, if you like - people like the ACT Chief Planner and the ACT Chief Surveyor - on the redistribution process right to the end of that process rather than only halfway through.

I am pleased that we have retained a high quality of chairmanship or chairpersonship in the commission in the way in which it has been structured - again a process which should provide for the maximum amount of independence and fearlessness in the way in which the commission does its work - and I am pleased that the process is one which is open, as far as possible, to public scrutiny. The decisions or tentative decisions of the commission are to be made public in a variety of ways. The commission has the power to open up its processes to public scrutiny and public contribution, and that, I think, will also free it, perhaps not entirely, from the likelihood of complaint about bias or inappropriate considerations. I think this is a laudable piece of legislation and I commend it to the Assembly.

MS SZUTY (4.44): I would like to say at the outset that I feel that the process which has brought us to this debate today on the Electoral Bill has been the right process, engendering broad agreement on what the Electoral Bill 1992 will encompass. The origins of this Bill go back to the counting of the votes in the First ACT Legislative Assembly election in 1989, which was replicated in 1992. The tortuous process that consumed many weeks before the election result became known demonstrated our need for a better system of electing local politicians. The referendum held on 15 February this year finally enabled Canberrans to reject the modified d'Hondt electoral system in favour of saying how they wanted their elected representatives to be chosen at the ballot-box. The Australian Electoral Commission outlined two options for consideration by the electorate - single-member electorates and the Hare-Clark electoral system. The 1992 election should be the last occasion where the Federal Government is responsible for ACT electoral matters.

The result of the referendum was known well before my own election to this Assembly. Since that time the Assembly and the Canberra community have been patient while the Government has been preparing this legislation. The legislation before us today is the first stage in the process that will see the Hare-Clark electoral system installed for the future election of ACT politicians.

While the Assembly has been patient, the Government has not been left unaware of the urgency placed on this issue by Assembly members. A matter of public importance debate occurred on 19 May, several questions without notice have been asked, and Mr Humphries set about establishing an electoral working group. On 14 October the Chief Minister presented the Electoral Bill 1992, which will establish the ACT Electoral Commission. We will now take the step of debating both the in-principle and detail stages of this Bill, with the promise of more detailed legislation to follow in 1993. The delay between the tabling of this legislation and debate has been appropriate, as it has given all members of the Legislative Assembly an opportunity to consult, and an opportunity for negotiation to occur between the Independent, Labor and Liberal members.

The main function of the legislation is to facilitate the creation of the Electoral Commission of the ACT. Earlier this year I had argued for the contracting of the services of the Australian Electoral Commission rather than the establishment of an ACT Electoral Commission. I now concede that the proposed arrangements are more appropriate, given firstly that contractual arrangements are not allowed under the terms of the AEC's own legislation. I also recognise that the ACT would not want to wait upon the Federal Government's pleasure while it changes the Australian Electoral Commission legislation to allow the AEC to have a role in ACT electoral matters that it does not have anywhere else in Australia.

What this Bill does establish is an ACT Electoral Commission which will be responsible to the ACT parliament. This is a desirable outcome as it prevents any perception of conflict of interest which may have arisen from the AEC carrying out electoral responsibilities for the ACT. Furthermore, the Joint Standing Committee on Electoral Matters acknowledges the existence of State electoral commissions elsewhere.

In establishing the ACT Electoral Commission, this Bill also sets out a procedure for the determination of electoral boundaries by the Redistribution Committee. I welcome this initiative as it ensures that the Canberra community has every opportunity to participate in an extensive consultation process. During the matter of public importance debate in May I spoke about Weston Creek and drew attention to my belief that electoral boundaries should not divide a well-identified community such as this into separate electorates. I have every confidence that, although the task before the Redistribution Committee will be a difficult one in achieving in three electorates a balance that reflects the needs of the electors, the independent process we have put into place with this Bill will achieve the desired result.

Whom do we trust with this task? Under the terms of this Bill the chairpersonship of the Electoral Commission will be vested in a member of the judiciary, a senior public servant, or a member of another electoral commission. The expertise demanded of this position is high and community confidence will be important to retain throughout the process. The other members of the three-person Electoral Commission team are the commissioner and one other member, all part-time positions. The commissioner is probably the highest profile position of the three, given that person's dual role as a member of the Electoral Commission and as the chair of the Redistribution Committee. It is important that the ACT community sees these positions as being beyond reproach and I therefore welcome the amendments foreshadowed by my colleague Mr Moore, which make the appointment of both the Electoral Commissioner and the chairperson disallowable by this Assembly. I believe that these amendments and those proposed by Mr Humphries will, if agreed to, strengthen the legislation.

Madam Speaker, I would like to conclude by returning again to the process that has brought this legislation from the Chief Minister's tabling speech to today's debate. I have found the approach taken, of open discussion of the Bill by the Government with me and fellow members of this Assembly, to be very helpful and refreshing. I personally hope that the process will provide a benchmark for future discussion of important pieces of legislation. I also feel that, as well as the

process being a hallmark for good processes, the legislation itself is good legislation. It accounts for the needs of both the Executive, allowing it to have carriage of the legislation, and the ACT Legislative Assembly, enabling us to have a voice in these important electoral matters.

I look forward to the appointment of the people who will be members of the ACT Electoral Commission and the Redistribution Committee. I am also looking forward to the tabling of the remaining legislation, due in 1993, that will further ensconce the Hare-Clark electoral system as the ACT's electoral system for the future.

MR MOORE (4.50): It is with pleasure that I rise to support the Electoral Bill. There is no doubt that at the referendum held concurrently with our election there was a clear mandate to do this. I think it reflects a very positive attitude on the part of the Chief Minister that she has responded quickly and has brought this Bill before the house. Quite clearly, the referendum result was not the result favoured by the Labor Party; yet this Bill, in its original form and after the discussions we have had and with the amendments, reflects an attitude that should be recognised by the electorate - the attitude of somebody who says, "Yes, we recognise the wish of the people, as expressed in the most significant form of community consultation, through a referendum, and we are prepared to abide by that referendum result". Madam Speaker, I think that is a very positive step forward and a very positive start to the debate on the electoral system.

The Labor Party position, Madam Speaker, was for single-member electorates. The position that we were moving from was a single electorate. I believe that the three electorates that are advocated in this Bill, in accordance with the referendum, based on the Tasmanian system, are in many ways a compromise of the benefits of the two systems. On the one hand, we have a proportional representation system; on the other hand, the people will be fortunate enough to be able to focus on a number of local members.

A good example of that is illustrated by the way people in Tuggeranong are already perceiving Ms Ellis, for example, and Mr De Domenico to be local members for the Tuggeranong area. That is the sort of concept that will become part and parcel of the notion that we have in terms of three possible electorates. Madam Speaker, I believe that 17 single-member electorates in the ACT would have been too small. It would not have allowed for the diversity of opinion within the electorates that we have here. It certainly reflected the good sense of the people of the ACT that they voted so strongly to support the system that this Bill begins to implement.

Madam Speaker, I am conscious of the fact that Mr Humphries announced some months ago - if I remember correctly, it was on ABC radio - that he also was preparing an electoral Bill. I am conscious of the amount of work that is involved in preparing Bills. They go back and forth to Parliamentary Counsel, and I am aware of the effort that Parliamentary Counsel puts in. I also am aware of the amount of work that Ms Follett and her staff have done in preparing this Bill and in getting it to the high standard that it is.

Madam Speaker, I indicated in a response to Gary Humphries on, I think, the Matthew Abraham show that if no other Bill came up I would support his Bill. The process that we have gone through here to date has been a very positive and excellent process of coming up with a very sensible Bill in the first place and then considering some amendments in a bipartisan or tripartisan way. I think that the

Bill that is being prepared by Gary Humphries still has a role. The exercise of preparing a Bill like that means that it presents an alternative view, so when one Bill is drafted a comparison will be appropriate. I presume that Mr Humphries's Bill will be available, at least in an exposure form, for us to look at so that we can make comparisons between the way he has gone with the committee that he has working on it and the way the next Bill is drafted. It certainly will be of interest.

I now move, Madam Speaker, to the amendments that I have prepared. The first two amendments, my amendments Nos 1 and 2, are simply to allow appointments made to be a disallowable instrument under section 10 of the Subordinate Laws Act of 1989. The advantage of doing that, Madam Speaker, is not so much to check or double-check what the Chief Minister is doing in the appointment, but more to make sure that it is a shared responsibility of the Assembly. Once an appointment was made it would be inappropriate for a member of the Assembly to say, "Yes, but this person ought not to have been there because I thought they were entirely inappropriate". Any member will have the opportunity to say that on the floor of this Assembly and to move disallowance of any appointment. I hope that that will not be necessary. There certainly are a number of outstanding people in the community who could fulfil the role identified in the Electoral Bill of 1992 without dissent. I am certainly hoping that a disallowance will not be necessary, but that members will accept responsibility for that choice. I will move those two amendments together.

The third amendment that I intend to move seeks to change the flexibility set out in the Electoral Bill. Madam Speaker, currently the Bill sets a range of 102 per cent and 98 per cent as the difference between electorates. I propose making that 105 per cent and 95 per cent respectively. Mr Humphries spoke of this earlier, pointing out that doing it in this way would allow for community of interest. I particularly had in mind the possibility of Weston Creek being divided. For some reason it always seems to be Weston Creek that gets divided, whether in terms of education, health, or whatever. I particularly had that area in mind in preparing this amendment. I hope that it will get the support of members and thus allow flexibility for these people to make these electorates fit into the character of Canberra in the most effective way.

Madam Speaker, with those few comments, I believe that it is appropriate for me to make clear that in general terms I will be supporting this Bill in principle.

Sitting suspended from 4.58 to 8.00 pm

MR STEVENSON (8.00): There are a number of reasons why I think logic would have convinced us that we should not have our own electoral commission in the ACT. This is another expense that need not be met by the people of the ACT if we did not have self-government. Allowing for the fact that we have it, one should look at what sort of electoral system there should be. The Australian Electoral Commission recommended a single electorate with a proportional representation system of voting. That was the recommendation to the Federal inquiry into the ACT electoral system in 1989. This was rejected by Federal members.

The Democrats later on tried to amend the Australian Capital Territory (Electoral) Act by changing the system of counting so that we would basically change the d'Hondt electoral system. The debate in the Senate was interesting. The Liberal Party and the Labor Party had been hard at it, opposing each other on another

matter for some time; but when it came to looking at the amendments suggested by the Australian Democrats they became as one. Led by Senator Margaret Reid on the side of the Liberal Party and Senator Bob McMullan on the part of the Labor Party, they were unanimous in voting down the changes proposed by the Australian Democrats which would have given the ACT, for the 1992 election, a system that was agreed by just about everybody to be better than the d'Hondt system that we had. The eight Democrats and Senator Harradine stood alone at that time, fighting for a better electoral system for Canberrans.

The people who are the experts on electoral commissions in Australia, the Australian Electoral Commission, said that the best system is one where there are 17 members in a single electorate. It is interesting that the people of Canberra support this same principle. We conducted a - - -

Mr Connolly: Hang on; there was a referendum, Dennis. The people spoke.

MR STEVENSON: Mr Connolly said that the people spoke at a referendum. Indeed, they did have a vote at the February 1992 referendum. However, when one speaks one needs to be given a choice as to what words one can use. If you are limited in your freedom of choice, how can anyone suggest that that is a choice?

We conducted a survey of some 934 people and we had five questions in all. The survey was to do with the electoral system that they preferred in the ACT. Three per cent suggested that it should be left as it is - d'Hondt. Sixteen per cent were for Hare-Clark. We did not explain what Hare-Clark was at that time, and I understand that that is a concern. Sixteen per cent said yes to single-member electorates, and we explained that that was 17 different electorates. Thirty-nine per cent said yes to proportional representation, and we explained that as the 17 candidates with the highest number of direct and preference votes being elected in one electorate. Twenty-six per cent were not sure. So, at almost a 2:1 ratio the 934 people we polled in Canberra preferred proportional representation, one electorate over single-member electorates or Hare-Clark.

To allow the people of the ACT a choice between only three electorates and 17 electorates has absolutely nothing to do with democracy. It has a great deal more to do with control of people and control of the options under which people can make a decision. Some might suggest that political parties mirror this; that they are a perfect example. There is absolutely no doubt - no-one here would be able to present a reasonable case against it - that the people in the ACT, if they were going to be forced into having an electoral system for the ACT and were going to be given a choice at a poll, should also have had put to them the question of having proportional representation in one electorate of 17 members. That is what most people prefer and that is what the Australian Electoral Commission recommended. However, the Federal Parliament worked to ensure that the people were not given a choice. That is not an uncommon thing, of course.

The Federal Government had a committee of inquiry which produced a report entitled "The Conduct of Elections - New Boundaries for Cooperation". Some 59 recommendations came out of that inquiry. About 50 of them referred to trying to solve problems that were caused by duplication of State and Federal electoral commissions. From a two-page list of those recommendations, let me pick out a few.

One was to reduce the dispersion of infrastructure. That created problems. They made recommendations to try to solve that. No. 9 in this list talks of commissions handling each other's inquiries. No. 14 suggests that commissions should exchange information about non-voters. No. 22 suggests that the Australian Electoral Commission could provide staff to act as State returning officers. No. 25 talks of State and Federal staff being encouraged to work for other commissions as well. No. 30 talks about commissions using one computer system for staff pays. I could go on and on. The inquiry reported on how you can handle the problem of duplication. If you are going to have separate electoral commissions for the States and a separate Federal Electoral Commission, what can you do to minimise wastage of money? What can you do to minimise duplicating functions? The joint standing committee certainly gave a very good understanding of what you can do.

It has been suggested that the system we have in the ACT is an excellent one. Let me read a letter which appeared in the *Canberra Times* on 5 October 1992 by Arch Bevis, the chairman of the Joint Standing Committee on Electoral Matters. It spoke of Crispin Hull's article headed "ACT not yet out of morass of electoral uncertainty" which appeared in the *Canberra Times* on 22 September, at page 9. Mr Bevis wrote that this article "offers a useful analysis of the electoral options available to the ACT Legislative Assembly, and the pitfalls inherent in those options". He continued:

> However, the last section of the article is misleading. In speculating on whether the ACT needs a separate electoral commission, Mr Hull notes that this committee recommended the continuation of state and territory (electoral) bodies. The article could lead one to infer that the committee supports the establishment of a separate commission for the ACT.
>
> Any such inference would be incorrect. The committee regards elections for the ACT Legislative Assembly as a matter for the people of the ACT and their representatives. It made no recommendations directly or indirectly regarding their administration.
>
> The committee's support for the continuation of state electoral bodies was more a recognition of realpolitic than a recommendation. It accepted that "there was insufficient support for a single electoral body to make it a feasible option in the current political environment".
>
> At the same time the committee acknowledged that the existence of separate electoral administrations is costly and inconvenient for the public. Its report focused on how the separate administrations could cooperate to offer a better and more cost-effective service to the voting public. The report does contain information that is relevant to the ACT Assembly and government as it considers the best way of conducting electoral events, but it does not imply that a separate electoral commission is the best way.

I do not believe that a separate electoral commission is the best way. I think that in the home of the Australian Electoral Commission, right here in our backyard in Canberra, it would be a far better idea, if we are going to conduct elections in the ACT, to have them conducted by the experts.

I well understand that there were amendments made to the Australian Capital Territory (Electoral) Act to prevent the ACT territorial government from contracting out to the AEC. Why was that done? It certainly had nothing to do with sense. What sense is there in prohibiting the ACT Assembly from arranging a contractual deal with the AEC if we choose to? That is the point: We did not have to if we did not want to; but why should we be prevented, by Federal legislative amendments, from going to the experts, the Australian Electoral Commission, and saying, "We think, because you are the experts, because you have had the experience twice already, because it would save money for the people of the ACT, that you would be the best people to run any future ACT election"?

With this Bill, prior to the amendments that will be passed, we are asked to give a blank cheque. We do not know how much it will cost. It is unfortunate that the people of Canberra initially were not given the opportunity to have a say on the electoral system that they most preferred if they were going to be forced into having local elections. Who would justify preventing a third referendum question? I must admit that at the time I tried to raise the matter again and again, but it never seemed to get reported in the media, unfortunately.

If we are to have an electoral commission, why not work towards having the AEC do the job? Why not go along to the Federal Parliament and ask them to be good enough to remove the recent amendments that blocked the right of this Assembly to determine how we should run an election in the ACT? If we feel that it saves money, if we feel that it saves time, if we feel that it saves duplicating functions, as was mentioned again and again in the report that I mentioned earlier, why do we not have that right? I look forward to hearing from Ms Follett or anybody on the other side, during the debate and the debates in the detail stage, on why we do not have that right. What is the cost of the way we are going as against the way we should have been able to go with the Australian Electoral Commission?

MR KAINE (Leader of the Opposition) (8.15): We have before us a Bill brought forward by the Government to take the first step in implementing the decisions of the referendum that was held concurrently with the last election. I think that members will know from the lengthy amendments that Mr Humphries has circulated that the Opposition does not agree entirely with the Bill and we are proposing to change it considerably. To some degree I have some sympathy for the sorts of things that Mr Stevenson has said. If we had a clean slate it might well have been that we would have sought to have the Australian Electoral Commission, or some other body, conduct elections on our behalf in the future.

Unfortunately, Madam Speaker, we have to live with the world as we find it, and the world in which we find ourselves in our own local situation is to some degree bound by Commonwealth legislation. We are not free to make up our own minds on many things. We were not free to decide, in the final analysis, whether we would have self-government or not. I know that Mr Stevenson would like to have seen a negative vote in connection with a referendum on that issue. I happen to believe that the decision to grant self-government to the ACT was the right one, so I disagree with Mr Stevenson on that point.

Mr Stevenson argues about what form of electoral system we should have. The fact is that, based on an Act of the Commonwealth, there was a referendum, and the people in the ACT were asked to vote on two different systems for what kind of electoral system they would like to have in the future. Perhaps we could have offered them other alternatives. Maybe there could have been a dozen options offered. Perhaps that simply would have confused the issue further. Perhaps we would not have got a clear-cut decision. Again, I happen to believe that the result of the referendum, that we should adopt the Hare-Clark system for future elections in the ACT, was the right one. I know that my political opponents do not agree with that. They would have preferred something different. So, we can each come here and argue that we would like the world to be different from what it is. Such argument is unproductive because, as I said before, we are not free to make our own decisions on some of these issues. The Commonwealth, whose legislation supersedes ours, has made some decisions that have now been imposed upon us and we have to work within the confines of those decisions.

We will be debating the Bill in some detail once the in-principle stage is concluded, and Mr Humphries will be putting forward a quite large number of amendments which we believe will turn this Bill into a better Bill. I would simply say, Madam Speaker, that, despite the fact that we might like to live in a fantasy world, unfortunately we do not. We have to live in a very practical world. The Government brought forward a Bill which it believed was necessary. From what the Chief Minister told us when she tabled it, I think she is right, much as some of us might have preferred to take a different route. That not being open to us, we are now compelled to look at what the Government has presented, with good intent, I believe, to fulfil the commitment of this Government, which the Opposition totally agrees with, to put into effect the result of the referendum that was held last February.

Despite Mr Stevenson's opposition to self-government itself, despite his opposition to anything that will make self-government work properly, despite his opposition even to anything that the Opposition and the Government might happen to agree upon, representing a very large majority of the members in this Assembly, I think that there is a course of action that is open to us. We do not have much room to move. We should proceed to put this Bill into place quickly to fulfil our obligations to the electorate and to the people of Canberra, and I think that with Mr Humphries's amendments we will end up with a Bill that should satisfy most people.

MS FOLLETT (Chief Minister and Treasurer) (8.20), in reply: I would like to thank members for their contributions to the debate on this Bill, and just reiterate that the Electoral Bill that we have before us establishes an ACT Electoral Commission and sets out the procedures for determining electoral boundaries for ACT elections. So, the Bill, as some members have commented, is but the first of a two-part process of establishing the rules for the next ACT election.

Madam Speaker, I would like to comment on some comments that members have put forward. Several speakers made a point of saying that they are rather regretful that the Australian Electoral Commission will not be conducting the ACT's elections for us. The facts are, firstly, that as the Australian Electoral Commission's legislation currently stands they could not do that. There would

need to be some amendment to the Australian Electoral Commission's legislation. Rather than wait for that amendment, which must go through the Federal Parliament of course, I think it better to get moving on this matter, as a self-governing territory has the capacity to do.

I would also like to make the point that I believe that it is much more appropriate that we do establish our own body to conduct ACT elections, and that that body should be responsible to the ACT parliament, and accountable to that parliament, not to the Commonwealth Parliament, or in fact to any other jurisdiction. I think this is an important part of taking on full responsibility for governing ourselves in the Territory.

Finally, I would like to say that the Australian Electoral Commission, as I mentioned in my introduction speech, has been closely consulted in the formulation of this Bill. Where the Australian Electoral Commission was able to make suggestions, those suggestions are largely reflected in the Bill. I think it is fair to say, Madam Speaker, that the Australian Electoral Commission has been supportive of this process, for which we are very grateful. There has been no intention, and certainly no process, to eliminate or exclude the Australian Electoral Commission from this Bill; rather, as Mr Kaine says, we are forced to live with reality and get on with the task as this Assembly sees fit.

Mr Stevenson also expressed regret, if I read him correctly, that we are actually implementing here the Hare-Clark system as outlined in the referendum that was held concurrently with the last election. I find Mr Stevenson's comments a little bit at odds with his usual stance on the views of the people. Mr Stevenson told us that he had polled, I think, 934 people in the ACT and that the largest number of them had supported a proportional representation system. It is well known that my own party supported a different system. There are more than 934 members of my party. Nevertheless, like Mr Stevenson's pollsters, we were defeated on the day by the 150,000-odd voters of the ACT who quite overwhelmingly endorsed the Hare-Clark system. We just did not have the numbers there, Mr Stevenson, I am afraid, and we must live with that. I think that there is very little choice for any member of this Assembly but to implement the will of the people.

Madam Speaker, Mr Stevenson, in his comments, made the point that he did not consider that the people had been given an adequate choice. There is no indication, that I have heard of, that people were unable to choose between the two.

Mr Kaine: There were not too many informal votes.

MS FOLLETT: No, there were not a great many informal votes, Madam Speaker, and the numbers were pretty conclusive. I regret to say, Madam Speaker, that in Mr Stevenson's case his preferred outcome was not the one that the people of Canberra preferred, and, indeed, neither was my party's preferred outcome. Nevertheless, we have to deal with reality.

I would like to thank those members of the Assembly who gave up some of their time to be briefed on this Bill, and also those members who were able to join me in a discussion of the various amendments to be moved and the shape that the Bill might finally take. I would like to think that that kind of consultative and

consensus process might have some future in this Assembly; but I would hazard a guess, Madam Speaker, that the next stage of the electoral provisions for the ACT will probably not be marked by such consensus because, clearly, the matters are far more complex and are far more amenable of debate.

Mr Humphries, in his comments, drew attention to the fact that this is but the first piece of legislation. Mr Humphries said, in fact, that the details of voting and counting are yet to be put in place, and he is quite right about that. There is ample material for any number of debates in the later stages of this matter. When you start to draw up a list of the issues which this Assembly will have to address, including the ones Mr Humphries has alluded to, they include such matters as the eligibility of voters and of candidates; the fees for candidates; the registration of parties; the disclosure of donations and, in fact, of all income and expenditure by parties; the public funding of elections; the process leading up to elections, the periods, for instance; where nominations are called; where ballot papers are printed; where polling places are; and what arrangements there might be for postal voting, for scrutiny of voting and for counting. All of that plethora of detail is a matter which this Assembly is yet to consider, and must consider, if we want to take full responsibility for the matter.

I guess, Madam Speaker, that, as we get further into that detail over the coming year, debate will be quite vigorous. I have no doubt that different parties will see their interests served in different ways, not to mention Independents, and we will have very vigorous debates about that.

Mr Kaine: Not to mention the Abolish Self Government Coalition.

MS FOLLETT: Indeed. Madam Speaker, I think for the moment that the Bill that we have before us is a necessary first step in that it will allow for the boundaries of the three electorates which the Hare-Clark system requires to be drawn up, and it sets out the process for that in full consultation with the community. I think it is important that we get on with that first step. I think it is also very important that we make it clear that this Assembly accepts that it is the Hare-Clark system that we are getting on with; that voters can be certain that at the next election they will be voting under a Hare-Clark system and that there is absolutely no doubt about that.

As I said, Madam Speaker, I thank members for their comments. I particularly thank them for their support of the Bill. If we can take this first step we are at least well on the way towards implementing our own electoral system for the ACT, which, I believe, is our responsibility as the ACT parliament.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

MR BERRY (Deputy Chief Minister) (8.29): I move:

> That so much of standing and temporary orders be suspended as would prevent the consideration of the Electoral Bill 1992 during the detail stage proceeding in the following order:

(a) Clauses 1 and 2 together
(b) Clauses 3 to 8, 18, 19, 29, 32, 36, 37, 39 to 44, and 46 to 48, together
(c) Clause 9
(d) Clause 11
(e) Clause 16
(f) Clause 20
(g) Clause 22
(h) Clause 26
(i) Clause 30
(j) Clause 33
(k) Clause 34
(l) Clause 45
(m) Remainder of the Bill, as a whole.

By way of a short explanation, Madam Speaker, what this rather complicated proposal sets out to do is to smooth the passage of the Bill through the detail stage. I am sure that members, now having studied the circulated motion, fully understand the ramifications.

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

Clauses 1 and 2 agreed to.

Clauses 3 to 8, 18, 19, 29, 32, 36, 37, 39 to 44, and 46 to 48

MR HUMPHRIES (8.31): Madam Speaker, I seek leave to move the amendments Nos 3 to 8, 15 to 24, 29, 32 to 35, 40 to 72 and 75 to 77, circulated in my name, together.

Leave granted.

MR HUMPHRIES: Madam Speaker, I move:

Clause 3, page 2, line 6, before the definition of "Commission" insert the following definition:

"'augmented Commission', in relation to a redistribution, means the augmented Commission established by section 39A for the purposes of the redistribution;".

Clause 3, page 2, line 7, definition of "Commission", before "Commission" (first occurring) insert "Electoral".
Subclause 6(1), page 2, line 28, before "Commission" insert "Electoral".
Subclause 6(2), page 3, lines 2 and 3, before "Commission" (wherever occurring) insert "Electoral".

Clause 7, page 3, lines 5 and 6, before "Commission" (wherever occurring) insert "Electoral".
Clause 8, page 3, line 10, before "Commission" insert "Electoral".
Subclause 18(1), page 5, line 20, before "Commission" insert "Electoral".
Subclause 18(2), page 5, line 21, before "Commission" insert "Electoral".
Subclause 18(9), page 6, line 4, before "Commission" insert "Electoral".
Subclause 18(10), page 6, line 6, before "Commission" insert "Electoral".
Subclause 19(1), page 6, line 10, before "Commission" (wherever occurring) insert "Electoral".
Subclause 19(2), page 6, line 15, before "Commission" insert "Electoral".
Paragraph 19(2)(a), page 6, line 16, before "Commission" insert "Electoral".
Paragraph 19(2)(b), page 6, line 18, before "Commission" insert "Electoral".
Paragraph 19(3)(a), page 6, line 21, before "Commission" insert "Electoral".
Paragraph 19(3)(b), page 6, line 24, before "Commission" insert "Electoral".
Subclause 29(1), page 8, line 24, before "Commission" insert "Electoral".
Subclause 32(1), page 9, line 27, before "Commission" insert "Electoral".
Subclause 32(2), page 9, line 29, before "Commission" insert "Electoral".
Paragraph 32(3)(d), page 10, line 2, before "Commission" (wherever occurring) insert "Electoral".
Subclause 32(4), page 10, line 6, before "Commission" insert "Electoral".
Subclause 36(2), page 11, line 22, before "Commission" insert "augmented".
Paragraph 37(1)(a), page 11, line 30, before "Commission" insert "Electoral".
Paragraph 37(1)(b), page 12, line 9, before "Commission" insert "Electoral".
Subclause 37(2), page 12, line 23, before "Commission" insert "Electoral".
Paragraph 39(b), page 12, line 33, before "Commission" insert "Electoral".

New clauses -

Page 12, line 35, after clause 39 insert the following new clauses in the Bill:

Augmented Commission

"39A. (1) For the purposes of each redistribution, an augmented Commission is established.

"(2) An augmented Commission shall consist of -

(a) the members of the Electoral Commission; and

(b) the members (other than the Electoral Commissioner) of the Redistribution Committee formed for the purposes of the redistribution.

"(3) The performance or exercise of an augmented Commission's functions or powers is not affected because of any vacancy in its membership.

Meetings of augmented Commission

"39B. (1) The Chairperson of the Electoral Commission may convene a meeting of an augmented Commission.

"(2) The Chairperson of the Electoral Commission shall preside at all meetings of an augmented Commission at which he or she is present.

"(3) If the Chairperson of the Electoral Commission is absent from a meeting of an augmented Commission -

(a) the Electoral Commissioner shall preside; or

(b) if the Electoral Commissioner is absent from the meeting - the members present shall appoint one of their number to preside.

"(4) At a meeting, 4 members constitute a quorum.

"(5) Subject to subsection (6), questions shall be determined by a majority of the votes of the members present and voting.

"(6) An augmented Commission shall not redistribute electorates under section 29 unless not less than 4 members of the augmented Commission, of whom not less than 2 are members of the Electoral Commission, vote in favour of the redistribution.

"(7) Subject to subsection (8), the member presiding at a meeting has a deliberative vote and, in the event of an equality of votes, has a casting vote.

"(8) The casting vote of the member presiding at a meeting shall not be used to vote in favour of the making of a redistribution under section 29.

"(9) An augmented Commission may regulate the conduct of proceedings at its meetings as it thinks fit.

"(10) Subject to section 40, an augmented Commission may inform itself in such manner as it thinks fit.

"(11) The Electoral Commission shall, on request by an augmented Commission, give the augmented Commission such information and assistance as it requires for the purposes of this Part.".

Subclause 40(1), page 13, line 2, before "Commission" insert "augmented".
Subclause 40(2), page 13, line 4, before "Commission" insert "augmented".
Subclause 40(3), page 13, line 11, before "Commission" insert "augmented".
Subclause 40(4), page 13, line 13, before "Commission" insert "augmented".
Subclause 40(5), page 13, line 18, before "Commission" insert "augmented".
Subclause 40(6), page 13, line 19, before "Commission" insert "augmented".
Subclause 40(7), page 13, line 23, before "Commission" insert "augmented".
Paragraph 40(7)(b), page 13, line 26, before "Commission" insert "augmented".
Clause 41, page 13, line 29, before "Commission" insert "augmented".
Subclause 42(1), page 13, line 33, before "Commission" insert "augmented".
Paragraph 42(2)(a), page 14, line 1, before "Commission" insert "augmented".
Paragraph 42(2)(b), page 14, line 4, before "Commission" insert "augmented".
Paragraph 42(2)(c), page 14, line 5, before "Commission" (first occurring) insert "augmented", before "Commission (last occurring) insert "Electoral".
Subclause 42(3), page 14, line 11, before "Commission" (first occurring) insert "augmented", before "Commission (last occurring) insert "Electoral".
Subclause 43(1), page 14, line 18, before "Commission" insert "augmented".
Paragraph 43(1)(b), page 14, line 20, before "Commission" insert "Electoral", before "Commission's" insert "augmented".
Subclause 43(2), page 14, line 23, before "Commission" insert "Electoral".
Paragraph 43(2)(a), page 14, line 25, before "Commission" insert "augmented".
Subclause 44(1), page 14, line 30, before "Commission" insert "augmented".
Paragraph 44(1)(b), page 14, line 34, before "Commission" insert "Electoral".
Paragraph 44(1)(c), page 15, line 2, before "Commission" insert "Electoral".
Paragraph 44(2)(d), page 15, line 11, before "Commission" insert "Electoral".

Paragraph 44(2)(f), page 15, line 17, before "Commission" insert "augmented".
Paragraph 44(2)(g), page 15, line 19, before "Commission" insert "Electoral", before "Commission's" insert "augmented".
Paragraph 44(2)(h), page 15, line 22, before "Commission's" insert "augmented".
Paragraph 44(2)(i), page 15, line 24, before "Commission" insert "augmented".
Paragraph 44(2)(j), page 15, line 26, before "Commission" insert "augmented", before "Commission's" insert "augmented".
Subclause 46(1), page 15, line 35, omit "the Commission", insert "an augmented Commission".
Clause 47, page 16, line 12, omit "the Commission or of", insert "an augmented Commission or".
clause 48, page 16, line 15, omit "Commission or of", substitute "Electoral Commission, an augmented Commission or".

I might mention, Madam Speaker, that amendment No. 45 on the sheet that I have circulated is proposed new clauses to be inserted in the Bill.

Madam Speaker, these clauses come together because they relate basically to the same thing. They deal with a change in the structure of the process whereby boundaries are drawn by what was originally called the Redistribution Committee and then the Electoral Commission in the Bill as it is presently drafted.

What the ACT Government has done in bringing forward the Bill in this form, as I understand it, is to adapt the present Federal model for drawing legislation and eliminate the element of retaining local technical experts from the first stage of redistribution into the second stage. This was removed by the Government, I understand, because it believed that the requirements that exist in the Federal sphere, for having local people in particular States involved in drawing boundaries and then retained so that they can advise the final commission stage on what to do with those boundaries, were not required in a small jurisdiction like the ACT. That is quite logical.

Madam Speaker, we believe that it would be appropriate to have a structure which retains those technical experts for their own sake. We are talking here about the Chief Surveyor of the Territory and the Chief Planner; people who have a high degree of expertise in the way in which demographics in the Territory work and the topography of the Territory, and in how those electorates might be structured, bearing in mind particularly the factors referred to in clause 30 of the Bill - community of interests, means of communication and travel, physical features and so on. We see great value in those sorts of provisions.

If I might explain it briefly to the Assembly, we would have at the first stage the Territory's Electoral Commissioner, the Chief Planner, the Chief Surveyor, and a fourth person, referred to I think in clause 32, representing, if you like, a broader community interest, who would make an initial appraisal of what the boundaries should be. That body would then be augmented - hence the augmented commission which appears in my amendment No. 3 - by two other people, the chairperson of the Electoral Commission and the third electoral commissioner. This augmented body of six people would then make a decision about the boundaries for the Territory's electorates.

That is a process which I believe ensures the maximum fairness, gives a voice to those who have something to contribute to that process, and is supplemented by all the other steps within the Bill which allow for public consultation and public access to that process. I commend that process to the house.

MR STEVENSON (8.34): I think it worthy of note that Mr Humphries has tabled some 77 amendments. It was the intention of the Labor Party to have this Bill passed seven days after it was tabled. At that time the vast majority of the amendments that now lie on the table were not drawn. The concerns that they raise were not known about. I note that Mr Lamont raises his eyes towards the heavens. Is that for some godly guidance perhaps, or is it because one is not supposed to mention these things? The Labor Party tries to ram Bills through so fast that people often do not even know that they have gone through until they start to bite by way of charges in the community or for some other reason. I think it is of some concern that repeatedly we get the same thing happening. Members in this Assembly are not given time to understand fully and to draft amendments to Bills, let alone members of the public.

MR MOORE (8.36): I have difficulty letting go by what Mr Stevenson said about drafting amendments and the amount of time for this Bill. I think members were sent a series of amendments by one group in the community called the Residents Rally, or something like that. We also have before us three very powerful amendments that I have drawn up and that are very important and 77 amendments from Mr Humphries. I think that we have not had a problem with that.

Mr Stevenson: When did you draw them?

MR MOORE: I drew them some time ago, but they were formally redrafted by Parliamentary Counsel to put them in an appropriate form. I note the date "17.11.92" on the amendment sheet that has been circulated.

MS FOLLETT (Chief Minister and Treasurer) (8.37): The Government will not be opposing this set of amendments moved by Mr Humphries. On my reading of them, what Mr Humphries is proposing is to draw together what my original Bill had set up as two separate bodies, namely the commission and the redistribution committee. Instead of that arrangement, Mr Humphries is putting forward that the redistribution committee should include the commission. A lot of the clauses referred to by Mr Humphries then reflect a redrafting, a wording change. It looks like a monumental set of amendments; but it is, in fact, a fairly straightforward one which is simply to combine those bodies, and one which we will not be opposing.

MR MOORE (8.38): I point out, Madam Speaker, that I appreciated having the opportunity to discuss these issues at length with Mr Humphries, Ms Follett and Ms Szuty. Therefore I am quite happy to accept these amendments, which I think are very sensible. They have been part of the process of working out how we can approach this type of Bill.

Amendments and proposed new clauses agreed to.

Clauses, as amended, agreed to.

Clause 9

MR HUMPHRIES (8.39): I seek leave of the Assembly to move my amendments Nos 9(a) and 9(b) separately.

Leave granted.

MR HUMPHRIES: I move:

> Page 3, line 13, before "Commission" (first occurring) insert "Electoral".

This is a reflection of what we have already decided to do, to change the terminology, so it is a relatively straightforward amendment.

Amendment agreed to.

MR HUMPHRIES (8.40): I move:

> Page 3, line 15, omit "activities of the Commission", substitute "operation of this Act".

What this does, basically, is change clause 9 of the Bill, which provides for the presentation of an annual report, to provide that instead of a report relating to the activities of the commission it relate to the operation of this Act. That is not intended in any way to narrow the scope of the report. In fact, it is intended to widen it slightly. For example, under clause 7 of the Bill the Chief Minister may ask for electoral matters to be referred to the commission and have the commission report to her on those matters. That might not be considered to be an activity of the commission, but it certainly is something under the Act because it is provided for in the Act.

It is a perhaps semantic difference, but I believe that it is a difference which is important and is of some value. I ask the Assembly to bear in mind that we need to make this report as comprehensive as possible so that when members use it, for example, in the Estimates Committee process, to decide what the commission has been doing during the year and to assess the value of its work, they have the chance to get a full picture rather than merely a partial picture.

MS SZUTY (8.41): I oppose this amendment as proposed by Mr Humphries. I think it will be the only one of his amendments that I will be opposing this evening. I recall that during the discussions we had about a week ago I was very much in favour of the furnishing of an annual report by the Electoral Commission to the Assembly. I believe that Mr Humphries's amendment does narrow the range of activities that the Electoral Commission may well report on to the Assembly. I actually interpreted it the other way round. Mr Humphries argues that it will in fact broaden the range of activities that the Electoral Commission will report on. I think that his amendment actually narrows the range of activities that they will report on in this case.

MR MOORE (8.42): I am supporting the approach taken by Ms Szuty in opposing this. She has pointed out to me, very sensibly, I believe, that it will narrow the scope of the report. I think we had from Ms Follett a short while ago a very good example of what might be coming to the Assembly in part two of the electoral legislation. I accept that Mr Humphries argues that clause 7 of this Bill will include that whole range of things that Ms Follett read out, but I think that by this amendment we would change the whole tone of it. The implications are that you really have to report on only what is in this Act. I believe that by saying "the activities of the Electoral Commission" we will broaden it to take into account all those parts of the Act and any other activities - for example, education activities - that the commission takes on. I think it is very important that the commission understand when preparing its annual report that the Assembly is interested in the whole range of its activities.

MS FOLLETT (Chief Minister and Treasurer) (8.43): Madam Speaker, the Government will not be supporting this amendment moved by Mr Humphries, largely for the reasons that have been outlined by Mr Moore and Ms Szuty. I believe that the commission should keep this Assembly informed in full of its activities. One of the activities that I am particularly keen to hear about relates to its educational role and its obligation to inform the community about electoral matters, and that is not, strictly speaking, encompassed in this Bill. I agree with the comments made, that Mr Humphries's amendment could well act to limit the reporting that the commission does rather than to broaden it. Madam Speaker, in the light of experience and perhaps in the light of further consideration of the matter, I may agree with Mr Humphries; but on my current reading of it my view is that he is actually limiting the amount of reporting that we might receive from the commission.

Amendment negatived.

Clause, as amended, agreed to.

Clause 11

Amendment (by **Mr Humphries**) agreed to:

Page 3, line 29, before "Commission" (wherever occurring) insert "Electoral".

MR HUMPHRIES (8.46): Madam Speaker, I move:

Page 3, line 31, after subclause (2) insert the following subclause:

"(2A) A person shall not be appointed as a member if the person -

(a) is, or has been at any time during the last 5 years, a member of a political party;

(b) has, at any time during the last 5 years, been a candidate in a general election of members of the Legislative Assembly or an election of members of a House of the Parliament of the Commonwealth, a State or another Territory; or

(c) is or has been bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with creditors or has made an assignment of remuneration for their benefit.".

Madam Speaker, this provision is one on which I gather we have no agreement and we are going to have to argue it. It was the intention of the Liberal Party in bringing forward these amendments to provide the strongest possible protection for the process of drawing boundaries and otherwise conducting elections in the ACT. I make no apology for the fact that basically we have plagiarised legislation from all over the country to establish the best and most extensive protections that might be afforded in legislation from around the country to the electoral process in the Territory and thence to the citizens of the ACT. Consequently, we have picked up a number of provisions - quite often provisions that exist or have been created by Labor jurisdictions - to put in the Bill those sorts of guardians against corruption, fraud or manipulation of the electoral process.

The provisions that were our guide in this particular case, Madam Speaker, came from Queensland and Victoria. Victoria, for example - I think it was the Cain Government at the time - enacted legislation, and I will quote from Part 5 of their Constitution Act Amendment Act:

> The Governor in Council must not appoint any person to be the Electoral Commissioner who -
>
> (a) is a member of a registered political party; or
>
> (b) has been a member of a political party at any time during the period of 5 years (whether before or after the commencement of section 4(2) of The Constitution Act Amendment (Electoral Reform) Act 1988) immediately preceding the date of the proposed appointment.

That obviously was designed to make sure that the person appointed to sit on the Electoral Commission - in this case the commissioner himself or herself - was a person whose integrity could not be attacked on the basis of any connection or association with a political party.

The provision was also picked up very recently - in fact, in the last few months, I understand - in Queensland, which, as members will know, has recently undergone a very extensive process of strengthening their electoral legislation, no doubt with a legacy of the Bjelke-Petersen Government in mind. Their provision occurs in their Electoral Act and is provided in section 14. It says:

> The Governor in Council must terminate the appointment of an appointed commissioner if the appointed commissioner -
>
> (a) ...
> (b) becomes a member of a political party;
> ... ...

The question that has to be asked, Madam Speaker, is this: Why should we not have for our political process every reasonable form of protection that exists in other places in this country? Why should we not provide for the examples of other States to be incorporated in our legislation if they are clearly considered by

other States to be valid ways of protecting the political process and the electoral process? In a sense I would argue to you that it is very hard to have too many barriers or safeguards against the abuse of the process, and that is the case here. The two provisions provided for here are to ensure that those who are involved in the political process in certain defined ways should not be the same sort of people who actually become electoral commissioners and guide, from what should be a position of neutrality, the process of the ACT's drawing of boundaries and conducting of elections.

My amendment refers to a number of categories which are ineligible. One is a person who has been a member of a political party at any time during the last five years. Basically, the provision from Victoria is picked up and applied here, almost without amendment. Paragraph (b) broadens that very slightly to cover people who are not just members or have been members of parties but people who have stood as candidates in elections either for the Assembly or for other parliaments around the country during that same period. Very clearly, a number of people in our community do get involved in politics or attempt to become involved in politics otherwise than as a member of a political party, and it is appropriate, I would argue, that those people should, similarly, be put at some distance from the sensitive process of drawing boundaries and the like. This is, again, a protection for the integrity of the process we are putting in place.

The third point is that we make bankrupts and those who have applied for the benefit of bankruptcy laws ineligible to be commissioners. I have nothing against bankrupts or people in this category personally, but I concede that there is a real perception that such people might be considered to be at risk in that process and constitute some weak link in the chain which conducts those important processes. That, no doubt, Madam Speaker, is why every other jurisdiction in this country, to my knowledge, State and Federal, has the same barrier. It is a provision which is universal, and it will be universal unless the ACT chooses not to accept this amendment. This is not meant to be an attack on the status of bankruptcy. It is an acknowledgment, I believe, that in this situation bankruptcy might be incompatible with a person doing that job without fear or favour.

Madam Speaker, it has been suggested, and I think the argument will be put forward, that we have here other processes - for example, the amendment being put forward by Mr Moore - which will protect the process of appointing a commissioner. If we have a person who comes forward who is an obvious political stooge, for example, then Mr Moore's amendment, which provides for the Assembly to disallow that appointment, if it is carried - and I think it will be - will provide all the protection that we need. I would say, Madam Speaker, that that is not the case. There are other problems which might occur which might not be picked up by that process. Obviously, no government is going to bring forward an obviously political appointee in these circumstances; but they could, with the greatest respect, possibly consider bringing forward an appointee who is not clearly political, but in fact, nonetheless, has an association with a particular party that might be in government at the time. That person will often have been a member of the party concerned.

Therefore, this is in a sense a test of honesty. Political parties in this Territory and other places, to my knowledge, do not publish lists of their members, so it is very much a question of a person who puts themselves forward as a candidate for this position ensuring that they fit all the tests of integrity and honesty which are required for a person holding that office. That means them honestly answering

the questions which would be put to them, such as: "Are you a member of a political party? Have you been a member of a political party in the last five years? Have you been a candidate in that time?". Those sorts of protections, I think, therefore, build in that protection which would make our Electoral Act the best, most fair and most free of corruption and mismanagement that we can possibly arrange through the passage of legislation.

MS FOLLETT (Chief Minister and Treasurer) (8.54): Madam Speaker, the Government will be opposing Mr Humphries's proposed new subclause (2A). I should say at the outset that I agree absolutely with speakers who have commented that members of this commission must be above reproach and must be seen to be above reproach. I think that Mr Humphries's amendment really reflects his unease, his suspicion of the kinds of people who might be appointed to the commission. I should say that I believe that his suspicions are unfounded. I will foreshadow now that we will be supporting Mr Moore's amendment which would make these appointments disallowable in this Assembly. Nor do I object to Mr Humphries's proposed subclause (2B) which means that there would be consultation on the appointments. I believe, Madam Speaker, that those two provisions together provide us with a belt and braces approach, if you like, to the appointment of commissioners, and that Mr Humphries's subclause (2A) represents a sort of "aralditing on of the trousers" approach which I really think is unnecessary. I support in principle what he says, but I have the greatest difficulty with the amendment as he has moved it.

I think that one of the problems would be ever implementing the amendment that Mr Humphries has moved. It makes no mention, for example, of the position of Independents, or people who have supported or electioneered for an Independent. I consider that such people might be just as politically compromised as other people who at some stage have been members of a political party, and in this particular electorate, Madam Speaker, we have a strong history of Independent candidates and Independent campaigns. They are not mentioned here and I find that a strange omission by Mr Humphries.

I think it is also strange, Madam Speaker, that Mr Humphries has made no mention of people who are associates or supporters of political parties without having been a member of them. I believe that we have seen candidates in Assembly elections who were not Independents but who would have sworn blind that they were not a member of any party either. I think that engaging in the scrutiny of those people's credentials would be a time consuming exercise which may or may not prove anything. It is up to this Assembly and up to the people who will be consulted in the process to come up with a list of names of people who are indeed above reproach.

Madam Speaker, on the question of bankruptcy, I object in principle to that particular part of Mr Humphries's amendment because it is a fact that in modern drafting practice the reference to bankrupts and to their being ineligible for various activities has largely been dropped. I think it is an anachronism to leave it in there. I accept that Mr Humphries has the highest of motives in putting it in, but I think that it does not reflect current drafting practice. I also think that it acts further to make the implementation of his amendment difficult and really implies that these appointments must be policed in some way.

Mr Humphries says that it is a test of the honesty of the people being appointed; but the fact that it is there in the legislation, to me, strongly implies that there has to be some sort of scrutiny by the people making the appointment as well. I, for one, do not believe that that level of examination of a person's credentials is appropriate, given the fact that I will be supporting Mr Moore's amendment, given the fact that Mr Moore's amendment would allow full scrutiny of those appointments in this Assembly and disallowance of them, and also given the fact that, as I have said, I am prepared to support the second part of Mr Humphries's proposal which does ask that these appointments be the subject of consultation with other parties and members in the Assembly. I think that is protection enough. I believe that the difficulties of implementation of Mr Humphries's subclause (2A) really do militate against it and, as I say, the Government will be opposing it.

MS SZUTY (8.59): I rise to support Mr Humphries's amendment in this instance. The reason I support it is that I regard proposed subclause (2A) as a clearing house, as an opportunity for this Assembly to screen, in the first instance, people whom we may consider to be inappropriate for positions on the Electoral Commission. Proposed subclause (2B) talks about the leader of each political party represented in the Assembly and members of the Assembly who are not members of such a party being consulted, and we also have an amendment proposed by Mr Moore, who would make this particular provision a disallowable instrument. I believe that proposed subclause (2A) actually strengthens the provision even further and gives us the opportunity to screen out certain people before they even get to the consultation or disallowance stage.

MR MOORE (9.00): Madam Speaker, this is an amendment that Mr Humphries made available to us quite some time ago. I must say that my position on it has oscillated somewhat. At times I have felt that it is a particularly important amendment and at other times I have thought, "Is it really necessary?". When we look at it in the light of disallowance, that gives us, first of all, 15 sitting days in which to assess whether somebody does fit into these categories, along with the other protections. Fifteen sitting days is in the order of three months. If disallowance is moved, there are another 15 sitting days. That gives us in the order of six months. That being the case, I have determined to oppose this amendment because I feel that we will have done enough.

Ms Follett raised the issue of supporters of Independents. In the original version that Mr Humphries circulated he had a paragraph (c), which read, "has at any time during the last 5 years electioneered on behalf of such a candidate". He was talking about any candidate who had run in an Assembly election. I think that that would have been a fairer version. Perhaps Mr Humphries will have the opportunity to indicate that this is not the case, but I understand that he had some difficulty with the word "electioneered". We had some debate over that, as Mr Humphries will remember. I indicated that if I were going to support this he would have to have something along those lines in order for it to be equitable. From my perspective, I can think of a range of people who would be ineligible or ought to be ineligible under the guidelines that Mr Humphries proposes for other parties.

Therefore, I have come back to relying more heavily on the disallowable instrument, which I think is a very powerful force - we will debate that in a short while - and also Mr Humphries's proposed subclause 2B, which is very sensible, namely, having to go through that consultation process in which somebody's political allegiance should come out. If somebody's political allegiance is so

minor that in this community nobody around the place knows about it, I really wonder whether we would need to worry about it. If Fred Bloggs five years ago decided in a particular campaign that he was going to support the Greens Party because he felt that they had an environmental policy that surpassed all others and he gave very short-term assistance in a political campaign by handing out a couple of how-to-vote cards for an hour, I do not think that that should be a problem.

The other concern I have is a concern I expressed to Mr Humphries. The difficulty is that to a certain extent it expresses a tone that if you join a political party at any stage you cannot be trusted. Granted, this is specific to being an electoral commissioner and being involved in setting boundaries and so forth. It has that tone. I believe that there are enough protections in the Bill, with the amendments that other members have agreed to, and therefore I have decided to oppose this amendment.

Mr De Domenico: And you will not change your mind between now and when we vote on it?

MR MOORE: Quite possibly.

MR HUMPHRIES (9.04): Obviously, there is not much point in debating this at great length. I just want to make a few quick points in response to some points that have been raised. The omission of reference to Independents or associates of political parties, as Ms Follett put it, was a reflection of the fact that it is difficult to define what we mean by that. The phrase I had originally was that a person who had electioneered on behalf of a candidate or party should be disqualified. The very amorphous nature of that concept made the Liberal Party believe that we should remove it.

I find it puzzling to hear Ms Follett say that we could have this sort of protection if we were going to be comprehensive about the matter, but if we cannot be clear about that we should not have any protection at all of this kind. Surely, covering what probably would be 90 per cent of the field is better than covering none of the field, and that is the point of this amendment. It might not catch every person who would be biased, but we would catch some of them who would be biased or were perceived to be biased, and that is the point of the amendment.

Ms Follett suggested that modern drafting practices left out bankruptcy. If she looks at the amendments carried to the Commonwealth Electoral Act earlier this year, I think she will find that there was no attempt there to remove bankruptcy as a disqualification of a commissioner. If that really is modern drafting practice it would have been done there; but it has not been, to my knowledge.

Finally, Madam Speaker, Ms Follett suggested that I was suspicious of people who might be appointed under this process. No, Madam Speaker. I do not know who those people are going to be, so I cannot be suspicious of them; but I am suspicious of governments. I am suspicious of governments that have the levers of power at their fingertips and that are tempted by the way they make those decisions and pull those levers to have particular outcomes resolved.

This is not a reflection on the present ACT Government; it is comment on governments generally. We have seen countless examples from governments on both sides of the political spectrum who have chosen on occasions to manipulate circumstances - sometimes by a very small amount, sometimes by a great deal -

in order to achieve some advantage. Whatever adverse comments they might get from such a process, they are, to some extent, counterbalanced and offset by what sometimes can be quite substantial electoral advantage from particular decisions in particular cases. That, Madam Speaker, is the essence of what this is all about. It is to make this process we are putting in place here as clean as it possibly can be. What more laudable objective could we have than that?

Question put:

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

The Assembly voted -

AYES, 7	*NOES, 8*
Mr Cornwell	Mr Berry
Mr De Domenico	Mr Connolly
Mr Humphries	Ms Ellis
Mr Kaine	Ms Follett
Mr Stevenson	Mrs Grassby
Ms Szuty	Ms McRae
Mr Westende	Mr Moore
	Mr Wood

Question so resolved in the negative.

MR HUMPHRIES (9.09), by leave: I move:

Page 3, line 31, after subclause (2) insert the following subclause:

"(2B) Before a person is appointed as a member, the Chief Minister shall consult -

(a) the leader of each political party represented in the Legislative Assembly; and

(b) all members of the Legislative Assembly who are not also members of such a party;

about the proposed appointment.".

Madam Speaker, I think we have already agreed that this should be enacted. This is a provision which provides for consultation to occur between the Government and each party leader and Independent who sits in the chamber. It is simply a way of making sure that the appointments that we make in this place do not reach the stage of having to have the sort of process that Mr Moore is on about.

We are talking here, in the case of, for example, the chairman of the commission, of someone with considerable standing in the community, hopefully - a judge or former judge, a former High Court justice, a former departmental head; people with great standing in the community - and it would be unfortunate if that appointment were to be kicked around in the Assembly in a political fashion. Therefore, this process is designed to provide for a level of consultation in the Assembly, or among members of the Assembly, such that the process Mr Moore seeks to put in place is not necessary. Obviously, it might on occasions

be necessary; but, if it is, that is because negotiations have not been particularly productive or have not been undertaken on a realistic basis. I think that this provision will avoid many of those circumstances and again strengthen the integrity of the process that we are talking about.

MR MOORE (9.11): Madam Speaker, in supporting this, and without reflecting on the previous vote, I should point out that part of that consultation, of course, would be to ask the Chief Minister whether the person has been a member of a political party, and the range of questions which to a certain extent cover the quite sensible concerns of Mr Humphries on the previous issue that was dealt with in the Assembly. Therefore, I am delighted to support this amendment.

MS FOLLETT (Chief Minister and Treasurer) (9.11): As I intimated earlier, the Government will be supporting this amendment. I think it is a sensible precaution. It is not an arrangement to which I am a total stranger. I think that it gets over a lot of problems that Mr Humphries outlined in speaking to his earlier amendment; so, as I say, Madam Speaker, the Government will support it. I draw your attention to the numbering, Madam Speaker. I am not sure whether we need to formally amend the numbering or whether that is picked up in the printing process.

MADAM SPEAKER: I believe that it will be a consequential amendment.

Amendment agreed to.

MR MOORE (9.12): Madam Speaker, I move:

> Page 3, line 33, add the following subclause:
>
> "(4) An instrument of appointment is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.".

My amendment is simply to make the appointment of the chairperson an instrument disallowable under section 10 of the Subordinate Laws Act 1989. The reason for it is to ensure that, if the consultation process outlined by Mr Humphries - the process that we have just amended in this clause - does not work, members have the opportunity for the first 15 sitting days after an appointment is made to move disallowance. The process there is that, if the matter is not debated, then, after a further 15 sitting days, the appointment is disallowed. Other than that, it comes to the Assembly for debate and the issues of conflict can be brought out into the open. Should there be a minority government, as we have now, it may well be the case that the appointment is overturned. I think this puts an appropriate system of safeguards into place.

MS FOLLETT (Chief Minister and Treasurer) (9.14): As I said before, the Government will be supporting Mr Moore's amendment to make these appointments disallowable instruments. I think this is the appropriate approach for scrutiny of the appointments, Madam Speaker. I think that it is a much better approach to have this arrangement of scrutiny by the Assembly, and disallowance by the Assembly, rather than a process of elimination or of trying to define a large range of people. I think that Mr Moore's amendment does provide for adequate scrutiny and also, of course, by bringing the question back into this Assembly, there is an appropriate role for the ACT parliament. This is a more accountable process than perhaps we might have considered before.

MR HUMPHRIES (9.15): I indicate that the Opposition also supports Mr Moore's amendment, for the reasons I outlined before. It provides for that fall-back in the event that the consultation process that we have already talked about does not work. It does make, I think, any government that might choose to put forward an obviously political appointment very wary of what might occur on the floor of the Assembly - even if it were a majority government; even if it were a government that felt inclined to unashamedly tamper with the process. It would feel uncomfortable having to justify that process on the floor of the Assembly, and that is why we support this amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 16

MR HUMPHRIES (9.16): Madam Speaker, I seek leave to move my amendments Nos 12, 13 and 14 together.

Leave granted.

MR HUMPHRIES: Thank you, members. Madam Speaker, I move:

Subclause 16(1), page 4, line 31, omit "terminate the appointment of a member", substitute "suspend a member from duty".

Clause 16, page 4, line 32, after subclause (1) insert the following subclauses:

"(1A) On the first sitting day after the day on which a member is suspended, the Chief Minister shall present a statement of the reasons for the suspension to the Legislative Assembly.

"(1B) If, within 7 sitting days after a statement is presented in accordance with subsection (1A), the Legislative Assembly passes a resolution requiring the Executive to terminate the appointment of the member to whom the statement relates, the Executive shall terminate the appointment of that member.

"(1C) If -

(a) the Chief Minister does not present a statement in accordance with subsection (1A); or

(b) the Legislative Assembly does not pass a resolution in accordance with subsection (1B);

the member who is suspended shall resume his or her duties.

"(1D) A member who is suspended from duty is entitled to be paid remuneration and allowances as a member during the suspension.".

Paragraph 16(2)(a), page 5, line 2, before "Commission" insert "Electoral".

This provides for the other end of the scale. We have had protections put in place to make sure that the person appointed is a person beyond reproach. I think that was the expression that was used. We are now talking of the other end of the scale where a government finds itself in some position of antagonism with an electoral commissioner and wishes to rid itself, as it were, of a particular person who might be less than cooperative, in the Government's eyes, with the Government's program.

Regrettably, these sorts of people do come along. I say "regrettably" because we have been in government as well. On occasions governments like to be able to take the option of taking that step to get the burr from under their saddle.

Mr Connolly: You never said that when you were in government, though, Gary.

MR HUMPHRIES: Well, I am honest now that I am out of government.

Mr Moore: What a statement! Would you like to repeat that?

MR HUMPHRIES: I hope that that is not on the record, Madam Speaker.

Mrs Grassby: That is on the record. Do not worry about it, Gary. It is well and truly on the record and we will always remember it.

Mr Lamont: Can we check that *Hansard* got that or can you repeat it?

Mr Moore: Don't worry. We will repeat it in our speeches.

MR HUMPHRIES: I think I might be misquoted, Madam Speaker. I had better check with the *Hansard* people before it is printed tomorrow.

Mrs Grassby: We will make sure that it goes in, Gary. You said it.

Mr Moore: Don't you worry. We can all repeat it, Gary.

Mr De Domenico: I do not think that microphone is working.

MR HUMPHRIES: No, I do not think the microphone here is working. I do not know what is wrong with it.

Madam Speaker, the fact of life is that those sorts of tensions will arise from time to time between governments and particular statutory appointees. In this particular case we feel that that appointment ought not to be one which can be terminated, as it were, at the will of the Executive. This should be an appointment which is protected to a large extent by well-established processes which require that the Government justify itself before the Assembly in the same way as it justified itself on the original appointment.

In other words, the Government must come back to the Assembly and establish that a particular person has committed some act of misbehaviour which does warrant that person's removal from the office of commissioner.

The process we are outlining in these amendments is as follows: The Government, rather than terminate an appointment, suspends a commissioner from duty. The commissioner then will be suspended for a period during which the Chief Minister will present on the floor of the Assembly a statement of the reasons for the suspension. The Government will then bring forward, presumably, a motion to terminate the appointment, based on that statement, and the Assembly as a whole will have the chance to debate it. If the Assembly feels that the termination is political rather than based on misbehaviour, then it has the option of refusing to accede to the motion.

Madam Speaker, this is designed again to strengthen that process of protecting the independence and integrity of the commissioner's role; of providing that that person can act without fear or favour and ensure that his or her decisions are made in a fearless way. This provision is picked up, from memory, from the Victorian legislation - again from the Labor Government in Victoria - which provides for some protection for those who perform the role of Electoral Commissioner.

MR MOORE (9.20): Madam Speaker, in rising to support this motion it occurs to me that the corollary of Mr Humphries's statement, "I can be honest now that I am not in government" is, "If I go back into government I can be less than honest". I just wanted to make sure that it got into *Hansard*. That is the corollary. But do not worry; it will not happen too soon, Gary.

Mr Stevenson: That is not the corollary.

MR MOORE: Mr Stevenson interjects that that is not the corollary. I will be interested to hear him speak and tell us what he thinks the corollary is.

Madam Speaker, I think that Mr Humphries has presented very sensible amendments that allow the Assembly to scrutinise an attempt to remove this particular person in much the same way as disallowance allows the scrutiny of an appointment. I think it is a very sensible proposition.

MR STEVENSON (9.21): Mr Humphries's statement, "I am honest now that I am out of government" does not refer to the future. It may be said to be referring to the past. I commend Mr Gary Humphries for being honest about it.

MS FOLLETT (Chief Minister and Treasurer) (9.22): Madam Speaker, the Government will not be opposing these amendments moved by Mr Humphries. They are entirely consistent with the previous amendment which brought to this Assembly the question of appointments to the Electoral Commission. The amendments now before us bring back to this Assembly the question of termination or suspension of members of the commission. This is entirely consistent and does not trouble us.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 20

MR HUMPHRIES (9.23): Madam Speaker, I move:

Page 6, line 32, add at the end the following subclause:

"(2) Before a person is appointed as the Electoral Commissioner, the Chief Minister shall consult -

(a) the leader of each political party represented in the Legislative Assembly; and

(b) all members of the Legislative Assembly who are not also members of such a party;

about the proposed appointment.".

I am not going to proceed with the first part of my circulated amendment. I think that for the reasons I have already outlined we should agree to this subclause.

Amendment agreed to.

MR MOORE (9.24): I think that this is the appropriate time for me to move my amendment No. 2. I move:

Page 6, line 32, add the following subclause:

"(2) An instrument of appointment is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.".

This relates to a disallowable instrument and is similar to the amendment to clause 11.

Amendment agreed to.
Clause, as amended, agreed to.
Clause 22

MR HUMPHRIES (9.25): Madam Speaker, I move:

Page 7, line 7, add the following subclause:

"(4) The Electoral Commissioner may hold any other office that is compatible with the performance of his or her functions as Electoral Commissioner.".

Madam Speaker, this amendment is designed to pick up some of the concerns that Mr Stevenson has raised in this Assembly tonight. I might indicate, as Mr Kaine indicated, that in an ideal world we would certainly like to look again at the arrangements the Government seeks to put in place here for the conduct of ACT elections. It is undoubtedly the case that one would assume at first blush that the Australian Electoral Commission has a considerably greater body of expertise and experience in the conduct of elections than we might find in any body which is established under an ACT enactment. It would therefore appear to

be a sensible move, if one had the power, at least to consider contracting with the Australian Electoral Commission for the conduct of ACT elections and for other matters which are provided for in this Bill. I accept, and I think we all accept, that that is not possible, given the state of the Federal legislation which provides for the operation of the AEC.

In the circumstances we have to fall back to what may be a less desirable but I think important second option. I understand, Madam Speaker, that it is possible for people who hold a commission under the Commonwealth Electoral Act to perform some functions under State enactments as well - not necessarily at the same time or in their role as officers under a Federal Act; but nonetheless the same people do have that capacity to perform that role. What I am talking about here is the idea of wearing two hats, having dual appointments, which I understand occurs already in the case of elections conducted for the lower house of Tasmania. In that case, I understand, officers who are employees or who hold office under the Commonwealth Electoral Act in respect of a particular division in Tasmania, at the time of the conduct of an election for the lower house of Tasmania, which of course is a Hare-Clark electorate, conduct that election wearing, as it were, a hat given to them under the State legislation.

It seems to me entirely sensible that we should contemplate that provision in the ACT if we cannot formally contract with the AEC for it to conduct our elections. This amendment will simply provide for the commissioner to hold another office if that is compatible with his or her performance under the present Act.

MS FOLLETT (Chief Minister and Treasurer) (9.28): Briefly, Madam Speaker, the Government is not opposing this amendment moved by Mr Humphries. I am not convinced that it is absolutely necessary, but I do agree that it could make for a more efficient and cost-effective Electoral Commission. On those grounds we are supporting it.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 26

MR HUMPHRIES (9.28), by leave: Madam Speaker, I move:

Subclause 26(1), page 7, line 32, omit "terminate the appointment of the Electoral Commissioner", substitute "suspend the Electoral Commissioner from duty".

Page 7, line 33, after subclause (1) insert the following subclauses:

> "(1A) On the first sitting day after the day on which the Electoral Commissioner is suspended, the Chief Minister shall present a statement of the reasons for the suspension to the Legislative Assembly.
>
> "(1B) If, within 7 sitting days after a statement is presented in accordance with subsection (1A), the Legislative Assembly passes a resolution requiring the Executive to terminate the appointment of the Electoral Commissioner, the Executive shall terminate the appointment of the Electoral Commissioner.

"(1C) If -

(a) the Chief Minister does not present a statement in accordance with subsection (1A); or

(b) the Legislative Assembly does not pass a resolution in accordance with subsection (1B);

the Electoral Commissioner shall resume his or her duties.

"(1D) The Electoral Commissioner is entitled to be paid remuneration and allowances during any suspension.".

These amendments basically reproduce the provisions that apply to the electoral commissioners in Part II of the Bill and apply them to the Electoral Commissioner referred to in Part III of the Bill. I might make the point here that there is some confusion arising from the usage of the term "Electoral Commissioner" in this Bill. It seems to me that the term "Electoral Commissioner" could apply equally to the person who is the commissioner - the head honcho in this process, the person who actually conducts the elections - and the electoral commissioners who are appointed as his or her fellow commissioners on that commission. It might have been easier if we had chosen a different terminology for the person who actually is referred to here in Part III of the Bill. Nonetheless, we do not have that luxury, and to make it clear we are now reproducing these provisions as they occurred earlier in the Bill.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

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Clause 26

Debate resumed.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 30

MR HUMPHRIES (9.30): Madam Speaker, I move:

> Page 8, line 32, before "Commission" insert "augmented".

This is simply a reproduction of earlier amendments we have made about the augmented commission.

Amendment agreed to.

MR MOORE (9.31), by leave: I move:

> Paragraph 30(b), page 9, line 8, omit "102%" and "98%", substitute "105%" and "95%", respectively.

Madam Speaker, the reason for changing this from 102 per cent and 98 per cent of the expected quota is to provide the Electoral Commission that we have so carefully chosen with the power to be able to take community of interest into consideration. I would still expect that the Electoral Commission will move as close to 100 per cent as it possibly can in dividing the Territory into those three electorates. My understanding is that currently the two electorates in the ACT have a variation of some 0.6 per cent. It is quite clearly the intention of any Electoral Commission to do that as best they can. However, if the result of that would mean, for example, that a line was drawn through the middle of Holder, with all the rest of Weston Creek being in one electorate and half of Holder being in another, that would be inappropriate. Hence the idea is to give more flexibility to that Electoral Commission.

MR HUMPHRIES (9.33): I indicate the Liberal Party's support for this amendment, Madam Speaker, although not after considerable debate and discussion in our party room about this.

Mr Connolly: Tell us more.

MR HUMPHRIES: That is all you are going to find out, I am afraid. Madam Speaker, the concern was not that we had any objection to providing for flexible boundaries that would encompass, hopefully, whole townships rather than parts of townships only, but rather the latitude this might give to a commission to provide for rather significantly different sized electorates; that is, electorates which varied from the quota provided for in that formula referred to - that they have a certain tolerance from the formula, based on their having either five-seventeenths or seven-seventeenths of the total electorate of the ACT within their boundaries. I do not need to mention that, if the Government can engineer to have a smaller number of electors required to elect a single member in areas where it has a stronger vote, clearly it will have a better chance of getting the numbers to govern the Territory than would be the case if that situation were reversed. So, there is a concern about that.

However, given the strong protection we have now built into this Bill on the appointment of a commissioner, we are satisfied that there is considerable protection in there; enough to make us believe that that kind of problem is a remote one and that it is more important to try to make sure that, artificially, parts of the Territory are split up when naturally they would be expected, in the minds of electors, to be in the same electorate.

MS FOLLETT (Chief Minister and Treasurer) (9.35): Madam Speaker, the amendment that Mr Moore has moved gives the Government no trouble and we will be supporting it. It merely seeks to increase the tolerance on the margins. Again I think it is a bit of a belt and braces approach because the later parts of the same clause of this Bill require that the Electoral Commission take into account the kinds of issues that Mr Moore mentioned, including things like community of interest, means of communication and travel, the boundaries of existing electorates and so on. Nevertheless, Madam Speaker, if members feel that it is important to allow that increased tolerance in order to make sure that the commission is able to fully implement that part of the clause, I have no difficulty with it.

Amendment agreed to.

MR HUMPHRIES (9.36): I move:

> Subparagraph 30(c)(v), page 9, line 19, omit", sections and blocks", substitute "and sections".

This relates to the last of the criteria referred to in paragraph (c) of clause 30. Instead of saying that the augmented commission will consider the boundaries of divisions, sections and blocks, it provides that it will consider the boundaries of divisions and sections. We should not have a commission which is looking at the boundaries of blocks. It would be unfortunate if the commission were to feel that it ought to be looking at the boundaries of blocks - that is, blocks within sections - to draw the boundaries for electoral divisions.

Clearly, we would hope, given what Mr Moore has just successfully moved in the Assembly, that boundary lines did not cross the ridges surrounding townships; but we acknowledge that there may be occasions where, for the sake of complying with the formula in clause 30, it does have to come down off the ridges and come into the lines that divide suburbs. It might even be the case in certain circumstances - hopefully very rare, if ever - that those boundaries have to leave the main roads that divide suburbs and move into the suburbs themselves and travel along streets that divide sections one from another.

I sincerely hope that we never see boundaries drawn which divide blocks one from another, so that Mrs Jones, who is living on a contiguous block to Mrs Smith, is in a different electorate. That would be most undesirable. I think that, by making it clear that we are going to consider the divisions and the sections, but not necessarily the blocks, we do not entirely preclude that possibility but we do make it less likely that the commission would feel free to draw a boundary travelling down the edge of a block.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 33

MR HUMPHRIES (9.39): I move:

> Subclause 33(8), page 10, line 29, after "thinks fit" insert ", including the opening of its meetings to members of the public".

This amendment basically amends subclause 33(8) to make it clear that the Redistribution Committee has the power to inform itself in such manner as it thinks fit, and that includes the opening of meetings to members of the public. It is a small point, but in the later stage where the augmented commission is considering the recommendations, as it were, of the Redistribution Committee, there is specific provision for meetings to be open to the public, for public hearings to take place and for other methods of consultation to occur. It concerned us to some extent that there was no reference to those specifically open forms of consultation at this point - that is, at the early stage of the process of drawing boundaries - and we felt that it was important to add some words which made that clear. Hence the words, "including the opening of its meetings to members of the public" are added, as a matter of excessive caution, perhaps - nonetheless, it is important - at the end of that subclause.

Amendment agreed to.

MR HUMPHRIES (9.40): I move:

> Subclause 33(9), page 10, line 30, before "Commission" insert "Electoral".

I am not sure why I am moving that separately, but I move it anyway.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 34

MR HUMPHRIES (9.41), by leave: I move:

Page 11, line 8, after subclause (2) insert the following subclause:

> "(2A) A notice referred to in subsection (1) or (2) shall specify each place at which the suggestions may be perused by members of the public.".

Subclause 34(3), page 11, line 11, omit "the office of the Commission", substitute "each place specified in the notices referred to in subsections (1) and (2)".

My amendments simply provide that certain notices can be issued not merely at the office of the commission but also at such other places as the commission might determine. This is simply to cover the situation where the commission is housed on the sixth floor of an office building and therefore, under this provision, unamended, members of the public would be required to travel up to the sixth floor of this office building to find the office of the commission to peruse certain documents that might be available there. This, instead, provides that they might do so at a more convenient place such as a shopfront or somewhere of that kind.

Amendments agreed to.

Clause, as amended, agreed to.

Clause 45

MR HUMPHRIES (9.42), by leave: Madam Speaker, I move:

Page 15, line 30 -

Omit "present", substitute "cause".
Before "Commission's" insert "augmented".
After "Commission's report" insert "to be presented".
Before "Commission" insert "augmented".

This is a small amendment. It simply makes it possible for the Chief Minister to cause to be presented to the Assembly a copy of the commission's report if he or she is absent from the chamber for whatever reason - sickness or something of that kind.

Amendments agreed to.

Clause, as amended, agreed to.

Proposed new clause 45A

MR HUMPHRIES (9.44): Madam Speaker, I move:

Page 15, line 33, before clause 46 insert in Part V the following clause:

Head of Administration to provide assistance etc.

"45A. The Head of Administration shall comply with any request by the Electoral Commission, the Electoral Commissioner or an augmented Commission for information or assistance reasonably required for the purposes of this Act.".

Madam Speaker, proposed new clause 45A is to provide some measures that would assist a commissioner if he or she were beleaguered in a situation of conflict with a government that was hostile to him or her. It may be, given the protections we have put in place already, that a government would not attempt to remove a commissioner in those circumstances but might try to make his or her job very difficult by denying him or her access to the other arms of government which have to cooperate with that person's job to make it happen.

This is designed to make sure that the administration, the pinnacle of which is the Head of Administration, is required to cooperate with reasonable requests for assistance or information for the purposes of the Act which emanate from the commissioner. This is designed to make sure that that commissioner can require that ballot-papers, for example, be printed for an election; can require that public servants provide information that he or she will need to make that decision; can require that schools be made available as polling places for an election.

I think, Madam Speaker, that it is a reasonable provision. I might point out that it is a provision picked up from, I think, the Victorian Act again, or other legislation as well, which provides for mandatory cooperation in the preparation of electoral rolls.

Proposed new clause agreed to.

Remainder of Bill, by leave, taken as a whole

MR HUMPHRIES (9.46), by leave: I move:

Page 1, line 1, after the long title insert the following preamble:

"PREAMBLE

1. On 15 February 1992 a referendum was held to enable the electors of the Territory to choose which of 2 voting systems is to be used at future elections for the Legislative Assembly.

2. The electors chose the proportional representation (Hare-Clark) system as outlined in the Referendum Options Description Sheet set out in Schedule 3 to the *Australian Capital Territory (Electoral) Act 1988* of the Commonwealth.

3. The electoral system chosen by the electors includes the system of rotation of the positions of candidates' names on ballot papers known as the Robson Rotation.

4. The Legislative Assembly wishes to enact legislation to implement the electoral system chosen by the electors as soon as it is convenient to do so.

5. To facilitate the implementation of that electoral system, the Legislative Assembly wishes to enact legislation to establish the offices and procedures necessary to enable the Territory to be divided into electorates.".

Page 1, line 1, after "Territory" insert "therefore".

The second amendment is merely consequential to our earlier amendments, but the first one is more significant. It provides, Madam Speaker, for a preamble to the Electoral Act. We have not often used preambles in ACT legislation. There is one Bill I can think of to do with banking, some time ago, where we might have done so. I think Ms Follett moved it. This is the only other occasion I can think of where we have done this.

The idea is to put in place clearly, for the benefit of those who read the legislation, the context of our action. This is not merely an isolated piece of legislation which will put in place some particular reform simpliciter. This is the first of two steps. This sets in place the drawing of boundaries and it will be followed afterwards by the process of putting in place the Hare-Clark voting and counting system. That is why we have done it in this particular fashion and I think it is important for us to refer to that in the preamble.

Also, Madam Speaker, we are here not just passing legislation that we happen to think is a good idea. We are not just thinking about this and saying, "Yes, let us do this and do that". We are doing something which legislators do not very often have to do, and that is to respond to a directly expressed wish of the people of the Territory. We have been given instructions in very clear terms. Those instructions were relatively specific and we are passing this legislation tonight as the first step in ensuring that that process conforms with the wishes of the electors of the Territory. I believe, Madam Speaker, that it is appropriate, therefore, to use the device of a preamble to make it clear that we are enacting not just the wishes of the Assembly but the wishes of the people of the Territory.

MR MOORE (9.48): Madam Speaker, this is a very sensible amendment. We heard an interjection from Mr Stevenson a short while ago expressing his dissatisfaction in some ways with the referendum. I find it very ironic that Mr Stevenson, who has long advocated a referendum system, voter's veto and so forth, is now finding difficulty with the results of a referendum because the questions that he would like to have asked were not asked. That is one of the great difficulties with either a referendum or polls, for that matter, Madam Speaker. Questions can be asked in such a way as either to elicit specific answers or not to provide a full range of information. With referendum questions there often is debate as to just how wide the range of questions should go. Obviously, you cannot have 30 or 40 questions on a referendum. On the other hand, is it enough to ask just one and two. That is a difficulty that Mr Stevenson seems to have and that no doubt he will respond to.

Mr Stevenson: You are not wrong.

MR MOORE: He may choose not to, of course. Madam Speaker, this preamble that Mr Humphries has moved as an amendment, I think, is a very positive idea. It sets the legislation in context and makes it more readable. I think we have moved very well in the direction of making legislation in the ACT more readable. There is still further to go and I think we all need to work on that.

MR STEVENSON (9.50): Mr Moore says that it is somewhat ironic that, because I so strongly agree with the right of citizens in Canberra to have some say as to what happens to them, by polling and so on, I have made comments about the referendum they were given in February this year and the choice of one of two questions to do with what electoral system they wanted. It is not ironic. It is the very reason that I ask that people be given a choice. There must be a choice. Everybody in here knows full well the point I make: That to leave out of the referendum the choice that most people in Canberra would agree with was appalling. To leave out the choice that the Australian Electoral Commission recommended is not okay.

I have listened to the debate this evening. I suggested earlier that, if somebody disagreed with that, let them present a reasonable viewpoint as to why the people should not have been given three choices rather than just two. One could have suggested d'Hondt, but because of the publicity about d'Hondt most people would not have wanted a say on d'Hondt. However, let us look at d'Hondt. It is fair to say that the d'Hondt system in the past has given a fairer proportional representative result than may be given in an election under the changed system as proposed by this Bill. Mr Lamont frowns a little. People had the opportunity with the d'Hondt system of at least getting some reasonable representation proportionally. As we all know, under the system proposed with three

electorates, it would require 17 per cent, approximately, or 12 per cent of people voting for a member. That gives great glee to ALP members in this Assembly, and perhaps others; but we know that in the past there were surprises for members opposite. Who knows, there may be a surprise early in 1995 as well.

MR MOORE (9.53): I still find it ironic, because Mr Stevenson was pictured again and again in the newspaper with the Hare-Clark campaign committee. If my recollection serves me, there was never any suggestion by Mr Stevenson prior to the referendum that this other option should be included in the referendum. It appears to be a case of Mr Stevenson being struck by the idea, like St Paul was struck by lightning.

MR STEVENSON (9.53): I have not the faintest understanding of why Mr Moore would say that I was pictured again and again with - what did you say?

Mr Moore: The Hare-Clark campaign committee.

MR STEVENSON: I said all along that Hare-Clark would easily get up and that they did not need to spend all the time on it. I used to get people on the committee saying, "Well, I hope you are right". I said, "Look, we have surveyed it. If you are only going to ask those questions, there is no problem at all; it is a walk-up start". We get members in the Assembly saying that the people of Canberra overwhelmingly voted for three electorates. Well, they say Hare-Clark, but it was actually three electorates over 17 electorates. That was going to be obvious.

The point I make again is this: Why were they not given the opportunity of voting for the electoral system that they would rather have if they were going to have an electoral system?

Mr Lamont: They did. Eighty-seven per cent of the population voted against the Abolish Self Government Coalition.

Mr Humphries: Actually it was 93 per cent.

MR STEVENSON: He is not too good on his maths, for a start.

MADAM SPEAKER: Order!

MS FOLLETT (Chief Minister and Treasurer) (9.55): I am very pleased to say that not only did I support the idea of having a referendum to choose the ACT's electoral system but I actively sought it. I still believe that it was the correct method for making this decision. The irony is that Mr Stevenson, who has been "Mr Referendum" to this point, is now denying that it is a legitimate expression of the will of the people.

Mr Stevenson: Talk about misrepresentation!

Mr Berry: I take a point of order, Madam Speaker. I think it was unparliamentary for Mr Stevenson to allege misrepresentation.

Mr Stevenson: Allege?

MADAM SPEAKER: Mr Stevenson, I ask you to withdraw that statement, please.

Mr Stevenson: Perhaps you could clear the matter up for me as to what I am withdrawing. When Ms Follett said - - -

MADAM SPEAKER: Mr Stevenson, I asked you to withdraw it. Will you just withdraw it, please.

Mr Stevenson: Which comment was it, Madam Speaker?

MADAM SPEAKER: That Ms Follett was misrepresenting.

Mr Stevenson: I thought I said, "Talk about misrepresentation". Was it not a misrepresentation?

MADAM SPEAKER: Mr Stevenson, have you withdrawn the statement?

Mr Stevenson: It is difficult - - -

MADAM SPEAKER: I have asked you to withdraw it. Would you please stand and withdraw the imputation.

Mr Stevenson: Stand and deliver. I find it difficult to, but perhaps I can put it some other way shortly. I withdraw the statement, "Talk about misrepresentation". Perhaps we will not talk about misrepresentation.

MS FOLLETT: I take that as a withdrawal, Madam Speaker. I take it as an unqualified withdrawal, but then I am a generous person.

MADAM SPEAKER: I took it as an unqualified withdrawal, Ms Follett.

MS FOLLETT: Madam Speaker, I do find it ironic indeed that Mr Stevenson should take this approach on the referendum when he has spoken on many, many occasions in this Assembly about seeking the will of the people, about referendums, about asking the question and carrying out the will of the people.

Mr Stevenson: Asking the questions.

MADAM SPEAKER: Order, please!

MS FOLLETT: On this occasion, because the vote apparently went against him, he denies the whole process. I find it ironic in the extreme again - as does Mr Moore - that Mr Stevenson, at this late stage, gets up and lets us in on the very well-kept secret that he wanted a different system. This was entirely news to me, Madam Speaker, and, I have no doubt, to most of the other members of this chamber.

Madam Speaker, all I can say to Mr Stevenson is that I did not support the Hare-Clark system, my party did not, and, like Mr Stevenson, we did not get what we wanted. But we are here now to implement the will of the people. They quite clearly have chosen the Hare-Clark system with a rotation method which is spelt out in the referendum option sheet, and that is what they are getting.

Madam Speaker, I would like to go further and say to Mr Stevenson, and to other members who might be interested, that, now that the ACT Assembly has responsibility for its own electoral matters, that responsibility, in time, could lead to a different system. Mr Stevenson, in his rush to abolish self-government and to deny us that power, does not seem to have contemplated that possibility. At some future time some future government could move for a different system. Mr Stevenson may move for a different system. He now legitimately can do so. But, for the moment, as has been said many times tonight, we accept history; we accept the facts that have been dealt to us, and that involves the Hare-Clark system with the referendum options described in the sheet. I would like to say again, Madam Speaker, as I said earlier, that this is but the first debate. As Mr Humphries said in the course of debate on this Bill, and as I indicated myself, there is a vast array of matters which the Assembly has yet to consider. In fact, on many of those matters we will not agree; there is no doubt about that. There will be disagreements. There will be quite volatile debate, I have no doubt.

However, Madam Speaker, I would like to think that this Assembly could do a rather better job than did the Federal Parliament. I think we would all be happy blaming the Democrats for that, would we not? I think that is unanimous, Madam Speaker. It was the Democrats who messed it up. There is no doubt that there never was a worse system than the modified d'Hondt system, and there simply never was a worse process than that which led to the modified d'Hondt system for the ACT. I would like to believe that one of the benefits of self-government, one of the benefits of this elected body having responsibility for its own legislation, would be that we could come up not just with a better system but with a better process of arriving at that electoral system.

Madam Speaker, I thank all members for their contribution to this debate. I accept Mr Humphries's preamble. I think all members now should hold themselves ready for the debate on the issues of detail, the matters which will actually set out the way the ACT elections will be held, will be counted and so on. This is a very important first step and I thank members for their attention to it and their support for the Bill.

Mr Stevenson: I raise a point of order, Madam Speaker.

MADAM SPEAKER: Yes, Mr Stevenson.

Mr Stevenson: I wish to talk about misrepresentation, under standing order 46.

MADAM SPEAKER: Mr Stevenson, I would caution you.

Mr Stevenson: Indeed, I claim to be misrepresented.

MADAM SPEAKER: I would caution you against debating my ruling in any way. It will have to be purely and simply a personal explanation.

Mr Stevenson: Indeed. That is exactly what it will be.

MADAM SPEAKER: There is a question before the Assembly, Mr Stevenson, so I am afraid that you will have to wait until we are finished.

Amendments agreed to.

Remainder of Bill, as amended, agreed to.

Mr Stevenson: I take a point of order, Madam Speaker, under standing order 46.

MADAM SPEAKER: There is still a question before the Assembly. Wait until all the questions are finished.

Question put:
That this Bill, as amended, be agreed to.

The Assembly voted -

AYES, 15	*NOES, 1*
Mr Berry	Mr Stevenson
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 affirmative.

MADAM SPEAKER: Now, Mr Stevenson, you will need my leave for this, so you may seek it.

MR STEVENSON: Madam Speaker, I seek leave to make a correction.

MADAM SPEAKER: You may explain matters of a personal nature. You may not debate my ruling.

MR STEVENSON: Indeed. It is unfortunately incorrect to suggest that I do not support referendums. I absolutely support referendums when people get a choice.

Mr Connolly: When it suits you. When people agree with you.

MADAM SPEAKER: There will be no debate, Mr Stevenson; just a personal explanation. All right?

MR STEVENSON: Yes. As I was stating, when people get a choice. To suggest, as Mr Connolly just did, that it is when it suits me, is not correct. The situation is that the AEC did not agree with this particular point either, and the majority of people in Canberra did not. When a referendum is held, it should be held fairly, it should be held justly and it should ask the questions that need to be asked. To not do that and to claim that I am against that is a misrepresentation.

FAIR TRADING BILL 1992
Detail Stage

Debate resumed from 22 October 1992.

Clauses 42 and 43, by leave, taken together, and agreed to.

Clause 44

MR STEVENSON (10.04), by leave: I move:

Page 29, line 32, subclause 44(5), after "conduct" insert the words" or requiring said person to do an act or thing".

Page 30, line 4, omit subclause (6).

Subclause (5) says that the court may issue an injunction - in other words, prohibit a person from doing something - even though the person has not done such an action previously and appears unlikely to do such an action in the future. This subclause simply duplicates subclause (6), except for the brief situation set out in my first amendment. If we adopt my amendment, subclause (6) becomes unnecessary. These are two of a number of amendments I have moved to try to do away with unnecessary words in the Bill.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.07): The Government will be opposing this. I think we have been through this debate on a number of occasions, but I will briefly restate it in respect of this clause. I and the Government have some sympathy with Mr Stevenson's proposition that legislation should be in as plain an English form as is possible, and we endeavour to do that. We indicated when this Bill was introduced that the explanatory memorandum in particular is something of a model of plain drafting and does set out in quite simple terms what the law is.

This Bill does refer in some areas to quite complex matters of commercial law. It is modelled on Commonwealth Trade Practices Act sections; clause 44, to which Mr Stevenson has moved his amendments, reflects in identical wording section 80 of the Commonwealth Trade Practices Act. The equivalence between this Bill and the Trade Practices Act is set out in the explanatory memorandum. That section of the Trade Practices Act, like many other sections of that Act, has been extensively litigated in the courts of Australia. A book I have referred to in the past by Russell Miller, who happens to be president of the Law Society of this Territory but is regarded as one of the pre-eminent trade practices lawyers in the country, sets out over extensive pages the decided cases on this clause.

There is a difference between the two subclauses. One refers to an injunction to prohibit a person from acting; the other refers to an injunction to require action. There is a difference in the wording. I accept Mr Stevenson's criticism that they are perhaps just lawyers' terms. They are quibbling, but they do make a difference. The courts have decided what those subclauses mean.

If there were an intention to have a policy change from the Trade Practices Act, I would be happy to entertain it. Mr Humphries has made the point repeatedly that we should not regard ourselves as locked into the Commonwealth model. I accept that. We may want to differ from it, and if we wanted to differ on policy, we would accept amendments. But where our policy is the same as the Commonwealth's, it makes eminent good sense to use the same wording. A similar wording has been used in a number of State Acts. The relevant provision of the New South Wales legislation, which is section 55, operates across the border; in the Commonwealth Act it is section 80. Business people who either take an interest themselves or go to their legal advisers for advice on this clause as we have drafted it will go to books such as Mr Miller's and equivalent texts and will get advice on the meaning of the clause based on the Commonwealth model and considered by the courts. Simply to change the wording, I would suggest to the chamber, is not a positive step.

I have previously made the offer privately, but I will make it on the record to any members who have problems with the drafting of clauses: I am more than happy to provide my officers to give them briefings privately in their rooms about why we are adopting a particular drafting style. We have shown in the past that we are prepared to accept considered amendments by the Opposition or by Independents on policy issues; but, where you are simply quibbling about words, in this area of black letter law it is better to stick to a standard form which has been considered by the courts.

Amendments negatived.

Clause agreed to.

Clause 45 to 47, by leave, taken together, and agreed to.

Clause 48

MR STEVENSON (10.10): I move:

Page 31, omit subclauses (1) to (4), substitute the following subclauses:

"(1) Where, in proceedings under this part in respect of conduct engaged in by a person or a body corporate, being conduct in relation to which Part II applies, it is necessary to establish the state of mind of the person or body corporate, it is sufficient to show that a person, director, servant or agent of the body corporate, being a director, servant or agent by whom the conduct was engaged in within the scope of the person's actual or apparent authority, had that state of mind.

"(2) Any conduct engaged in on behalf of a person or a body corporate -

(a) by a person, director, servant or agent of the body corporate within the scope of the person's actual or apparent authority; or

(b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of a person or the body corporate, where the giving of the direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;

shall be deemed, for the purposes of this Act, to have been engaged in also by the body corporate.".

In clause 48, subclauses (1) and (2) adequately deal with all matters addressed by subclauses (3) and (4), except for the situation set out in my amendment. Simply put, my amendment makes subclauses (3) and (4) unnecessary.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.11): The same argument applies to this amendment. This is a complex clause relating to conduct by companies or their servants. The Commonwealth Act and all the State Acts separate conduct by companies and conduct by servants. Mr Stevenson seeks to roll them into one. It is better to stick to the established language.

Amendment negatived.

Clause agreed to.

Clause 49 agreed to.

Clause 50

MR STEVENSON (10.12), by leave: I move:

Page 33, line 20, subclause (1), omit the subclause.

Page 33, line 33, subclause (2), after "may" insert the words "of its own volition on behalf of or".

I ask the Assembly, and particularly the Attorney-General, to explain two subclauses to me. Subclause 50(1) states:

> Without limiting the generality of section 44, where, in proceedings instituted under, or for an offence against, this Part, the Court finds that a person who is a party to the proceedings has suffered, or is likely to suffer, loss or damage by conduct of another person that was engaged in (whether before or after the commencement of this subsection) in contravention of a provision of Part II, the Court may, whether or not it grants an injunction under section 44 or makes an order under section 45 or 46, make such orders as it thinks appropriate against the person who engaged in the conduct or a person who was involved in the contravention (including all or any of the orders mentioned in subsection (7)) if the Court considers that the order or orders concerned will compensate the aggrieved person in whole or in part for the loss or damage or will prevent or reduce the loss or damage.

Subclause (2) states:

> Without limiting the generality of section 44, the Court may, on the application of a person who has suffered, or is likely to suffer, loss or damage by conduct of another person that was engaged in (whether before or after the commencement of this subsection) in contravention of a provision of Part II or on the application of the Director in accordance with subsection (3) on behalf of such a person or 2 or more such persons, make such order or orders as the Court thinks appropriate against the person who engaged in the conduct or a person who was involved in the contravention (including all or any of the orders mentioned in subsection (7)) if the Court considers that the order or orders concerned will compensate the person who made the application, or the person or any of the persons on whose behalf the application was made, in whole or in part for the loss or damage, or will prevent or reduce the loss or damage suffered, or likely to be suffered, by such a person.

I ask the Attorney-General to explain the two subclauses.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.14): Madam Speaker, they are hardly a model of plain English drafting. Indeed, they are clauses that even the highly respected Russell Miller, to whom I previously referred, takes about six pages in extraordinarily small type to explain in his annotation to the Act. Simply stated, subclause 50(2) of our Bill replicates paragraph 87(1)(a) of the Commonwealth Act. The original subsection 87(1) was intended to be a broad power for alternative remedies. There were some problems in the way that was being interpreted by the courts. In 1977, the Commonwealth Government - I note for members opposite that it happened to be a Liberal government at the time - in response to some restrictive interpretations, put in the second subsection to again direct the courts that the power to provide additional remedies was intended to be expansive. Mr Miller provides about 14 or 15 cases in his explanation as to how that has been interpreted.

Again, if we were starting from scratch, doing legislation purely for this Territory, I am sure that we could do it in a more simple manner; but we are picking up the policy intention of the Commonwealth Act as it has been replicated in the States. The intention is to be as broad as possible in alternative remedies. It does make more sense to pick up the identical language, because courts unfortunately have a tendency, if you differ in the specifics of the language, to assume that you are differing in your policy intent. That would be unwise in this area of complex commercial law.

MR CORNWELL (10.16): Madam Speaker, I ask the Attorney: If we have borrowed from the Commonwealth, is it the intention of the Commonwealth to make this clearer at some point in the future, as far as you are aware, and place it into plain English? It seems to me totally absurd that we have a Fair Trading Bill which we trust people will abide by but which you cannot understand. This is an absurdity. You cannot expect ordinary people out there to understand the law or, may I say even more strongly, to have any respect for law they cannot understand.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.17): I have to accept the criticism, Mr Cornwell. It is a little like the taxation Act. One would think that a simple law saying "Thou shalt pay tax" would suffice. Unfortunately, some of the best brains in the Commonwealth are employed at very high salaries in order to avoid Commonwealth taxation provisions, which is why we get in the Commonwealth taxation Act section 52XYZ(3)(ab). When you have a provision that is intended to be simple, unfortunately lawyers will often come up with a way of avoiding it. Parliaments tend to react with a clarification, and when you get clarification upon clarification you tend to get sections that are long and complex. When read out, as Mr Stevenson did, they seem a little absurd and, as I said, not a model of good English drafting. I would certainly support any moves nationally to simplify these provisions; but I do say that, until that happens, it is more prudent for us to keep to the established language.

MR HUMPHRIES (10.18): Madam Speaker, I have to say that I do not understand what Mr Cornwell was talking about. It seems perfectly simple and plain to me, and I am sure Mr Connolly feels the same way! I have to oppose the amendment moved by Mr Stevenson because it seems to me, on reading this, that there are different circumstances in the two subclauses.

Mr Kaine: There are? It escapes me.

MR HUMPHRIES: It is not easy to determine, I admit. There is reference, for example, to applications of the director in accordance with subclause (3), which is not referred to in subclause (1). Presumably the circumstances in which you might seek an order under (1) or (2) are different. Rolling them both into one, as Mr Stevenson proposes, it seems to me, would have unintended consequences. I support what he is saying, though. It is unclear, despite my earlier comments, and it may be that they could be teased out.

However, I think there is a broad assumption that, because a sentence is long and lots of long words are used in it, it can be rendered simpler by the deletion of some words. I suspect that, when you get down to the business of actually looking at it, you will find that to make a provision such as that simpler to understand you would actually need more words. That is often the case with legislation of this kind, I suspect. I think that is a process that goes beyond this exercise today in amending the Fair Trading Bill. Instead, perhaps it should be considered in due course by bodies such as the Legal Affairs Committee of this Assembly, of which I am chairman, to look at ways in which we might get this sort of legislation on the books in a form which people can understand.

MR STEVENSON (10.20): Mr Humphries said it far better than I could when he said that it seems perfectly clear to him. When we were looking at the Bill initially, we spent many hours reading it. We were trying to work out what each clause meant. You cannot possibly suggest that amendments are necessary unless you work out what on earth they are saying in the first place. These subclauses contain 153 words and 172 words. I did not count the numbers as words; that makes it more. I also left out the tiddly subclause (3) of 110 words. What we got down to was that subclause (1) says that the court may make orders to prevent or compensate for loss or damage. What the amendment does is save 160-odd words by putting the two subclauses into one. We got a statement from the Attorney-General that it is slightly absurd. I agree with the second word but not the first - "absurd" is right but "slightly" is not.

Mr Cornwell made the point and made it well: You simply cannot expect any normal individual who thinks logically to understand this. If you have been trained in legal gobbledegook for a decade, I understand that you could probably work out fairly readily what these things mean, although we will never have any proof of that. How would you know? You cannot tell by listening to them and you usually cannot tell by the determinations.

Mr Kaine: You can only tell after lengthy court proceedings.

MR STEVENSON: How do you tell? Do you tell by who won and who lost?

Mr Cornwell: That is right, and when you get the bill.

MR STEVENSON: I think we all know who loses there and who does not. Simply put, nothing better illustrates the absolute absurdity of legislation than when it is written so that you cannot understand it. I know that that is humorous, but what about the person who is trying to work out what subclauses 50(1) and (2) mean? Do they have to go along to a solicitor and have him try to work out what it means? Is that justice? Is that to do with fair trading? I do not think so.

Question put:

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

The Assembly voted -

AYES, 1	*NOES, 13*
Mr Stevenson	Mr Berry
	Mr Connolly
	Mr Cornwell
	Mr De Domenico
	Ms Ellis
	Ms Follett
	Mrs Grassby
	Mr Humphries
	Mr Kaine
	Mr Lamont
	Ms McRae
	Mr Moore
	Mr Wood

Question so resolved in the negative.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.26), by leave: I move:

Page 33, subclause (1), line 24, omit "(whether before or after the commencement of this subsection)".

Page 33, subclause (2), line 35, omit "(whether before or after the commencement of this subsection)".

Page 34, subclause (3), line 6, omit "(whether before or after the commencement of this subsection)".

These amendments pick up a recommendation of the Scrutiny of Bills Committee to make it clear that clause 50 - that is, the broad power to make orders - should not be retrospective. Interestingly, the Commonwealth provision that this is modelled on does make it clear that it should be retrospective, as do most other States. We have made it a practice in this Assembly to be very careful about retrospectivity.

Mr De Domenico: Except for the Workers' Compensation Supplementation Fund (Amendment) Bill.

MR CONNOLLY: Sometimes we will differ. In relation to this, we thought that the committee's recommendation was a fair one, and we support the changes suggested by the committee. I make it clear to Mr Stevenson that I am not being inconsistent here. We are picking up an amendment because we accept that there ought to be a policy difference, that is, retrospectivity or not. We are not simply playing with words.

MR DE DOMENICO (10.27): Madam Speaker, the Opposition will be supporting the amendments moved by Mr Connolly. We hope that from now on retrospectivity in any shape or form will not be part of legislation in the ACT. It is a pity Mr Connolly was not here when we debated the Workers' Compensation Supplementation Fund (Amendment) Bill, which does bring in the concept of retrospectivity, notwithstanding the recommendations made by the Scrutiny of Bills Committee.

MR STEVENSON (10.28): I also support the amendments. Mr Connolly was good enough to say that there is no inconsistency here; that because we have a policy in this Assembly, most of the time it is perfectly okay not to do something that was done by the Commonwealth. I think the same principle should apply to all aspects of the legislation. If we are going to approve legislation, we should look at each particular situation and work out what is best for people in Canberra, with little concern for what people do in other parliaments or assemblies. It is unfortunate that not one of the many amendments I proposed over the three weeks or so that we have been debating this Bill was passed. Some were very important, and I have no doubt that in the future the unintended consequences will come home to roost.

We need to draw up and approve legislation that is written in simple English. If it takes us longer to do that, we should spend the time. Mr Humphries makes the point, and it is a relevant one, that it can often require more words for a particular clause to be simply understood. That is true. However, if you look at the examples of the Victorian Law Reform Commission, where they have taken Bills and rewritten them so that they can be understood by people in the street, you find that some clauses are longer but, overall, you save a great deal of space. Even if you do not save the space, at least if it is longer you can understand what is meant. That is what we should be doing.

Amendments agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill, as amended, agreed to.

CONSUMER AFFAIRS (AMENDMENT) BILL 1992

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

That this Bill be agreed to in principle.

MR HUMPHRIES (10.31): Madam Speaker, this Bill goes hand in hand with the legislation we have just passed. It seems to me and to the Opposition to be a fair setting in place of provisions that complement that earlier Bill. Many of the amendments are fairly mechanical, but they do reflect the important changes that are effected by having our own Fair Trading Act. I therefore commend the Bill to the Assembly and suggest that it be enacted.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.32), in reply: I thank Mr Humphries. This does go together with the other Bill. These Bills were tabled on 19 September, so there has been plenty of time for community debate. I thank the Opposition for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 10.32 pm

ANSWERS TO QUESTIONS
ATTORNEY GENERAL FOR THE AUSTRALIAN CAPITAL TERRITORY

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 361

Community Law Reform Committee -
Residential Tenancy Law Reference

MR CORNWELL - Asked the Attorney General upon notice on 14 October 1992:

In relation to the Community Law Reform Committee of the ACT and the current Residential Tenancy Law reference -

(1) What policy direction, if any, has the Government given the Committee;
(2) As any law reform is only as good as its factual basis, has the . Committee any funds to conduct a survey to verify the current factual base; and
(3) Can the Government provide such funds at (2) and; if so, how much.

MR CONNOLLY - The answer to the members questions are as follows:

These questions assume a measure of control over the Committees research and decision making processes which the Government does not have. The Committee is an independent body established to make recommendations to Government on the basis of its own investigation following consultation with the community. It does not conduct surveys at the behest of Government.

(1) The answer to the first question is an emphatic no. The Government has not nor will it dictate policy or tell the Committee what it should think or do. To push the Committee in any direction would jeopardise the Committees proven independent standing in the community and deprive it of its ability to make impartial recommendations.

(2) The Government is not in the practice of allocating particular funds to the Committee for particular purposes. The Committee has the resources of a secretariat which is one of the functions of the Law Reform Unit of my Department. How the Committee uses those resources within the confines of the law reform budget is a matter for the Committee. This Government is not about to investigate and advise the Committee on how it should complete the terms of reference on residential tenancy law or on any other reference.

(3) If Mr Cornwell has any particular concerns in relation to this matter he may wish to consider taking them up with the Committee.

3399

MINISTER FOR THE ARTS

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 387

CULTURAL MINISTERS COUNCIL

Mr Westende - asked the Minister for the Arts

(1) What is the purpose of the Cultural Ministers Council and what is its relevance to the - ACT?

(2) Are there regular meetings of the Cultural.Ministers Council and-who attends?

(3j What is the breakdown of expenditure in 1991-92 for the Cultural Ministers Council?

(4), What have been some of.-the outcomes-.from attendance at the Cultural Ministers Council?

Mr Wood -.the answer to the Members question is as follows:

(1) The Cultural Ministers Council was established in 1984-85 by agreement between the Prime Minister, the Premiers and the. Chief Minister of the NorthernTerritory. .Subsequently; New Zealand has joined. Membership now -comprises the Arts Minister- from the Commonwealth, all States/Territories. and New Zealand.

The Council fosters an exchange of views on issues affecting cultural activities-in Australia. and. New Zealand and is the basis for cultural co-operative effort.

The Standing Committee is the only permanent :committee of the Council and: consists of the nominee of each Minister.The main objective of the committee- is to. assist the Council improve co-operation and co-ordination of government. policies.

(2) ..The Council holds a -regular annual meeting in the period between 15 May -and. 7 June. Other. meetings are held when necessary. As ACT Minister for the Arts,.attended the Perth meeting in - June 1992, but was not present at the. Hobart meeting on the 5th of July 1991.

As well, the Standing Committee generally meets twice yearly once before the Council meeting- and once early .in the year to draw up, on behalf of Ministers; a draft agenda for their meeting .

3400

The meetings are normally attended by the General Manager who has responsibility for the-arts, .but if the agenda. covers other broader cultural issues, other officials may attend.

(3) The revised annual budget for 1992 is presented below with major areas of expenditure.

Table included.

(4) ACT attendance at Cultural. Ministers council has joined the ACT with an impressive cultural network which keeps abreast of national and international issues.

Recently the ACT has been involved in discussions concerning such important topics as the. role of. the Commonwealth in Australias cultural development; better cultural delivery systems; cultural statistical data collection; key cultural issues over the next. decade moral rights for arts.

3401