DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

16 December 1992

Wednesday, 16 December 1992

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Wednesday, 16 December 1992

MADAM SPEAKER (Ms McRae) took the chair at 10.32 am and read the prayer.

EPIDEMIOLOGICAL STUDIES (CONFIDENTIALITY) (AMENDMENT) BILL 1992

Debate resumed from 9 December 1992, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

MS FOLLETT (Chief Minister and Treasurer) (10.32): Madam Speaker, the Government will be giving support to this private members Bill, the Epidemiological Studies (Confidentiality) (Amendment) Bill 1992. We have perused it carefully; we have considered the issue and made our decision. We note that the Bill was introduced on 9 December and is being dealt with today, 16 December - a point that may be of some relevance later on this morning.

Mr Moore introduced the original Bill into the Assembly. He did so specifically to address the need to provide legal indemnity for those people involved in researching territorial studies. The legislation named one particular study, the Canberra drug users study, as a prescribed study under the Act. Since the enactment of that piece of legislation, the Government has approved the Epidemiological Studies (Confidentiality) Regulations, which name the study "Feasibility Research into the Controlled Availability of Opioides" as a prescribed study.

While developing those regulations, it became obvious that, rather than just naming the study in the regulations, a more detailed approach was required to avoid any confusion arising as to the boundaries of the study. Therefore, as well as naming the study "Feasibility Research into the Controlled Availability of Opioides", the regulations provide a comprehensive interpretation of what that study is about and who is conducting it. As many studies have similar components, it is preferable that this is the approach taken. To be brief, I therefore propose that Mr Moore's amending Bill be supported.

MRS CARNELL (10.34): The Liberal Party also will be supporting this Bill, for very similar reasons to those put by Ms Follett. Obviously, confidentiality in these sorts of studies is important. It is also important to know exactly what study you are talking about. With a study of this dimension, it is very important that exactly what we are talking about is understood, and on that basis the Liberal Party will be supporting the Bill.

MR MOORE (10.35), in reply: I thank members for their support. I shall take up a couple of points. Firstly, the Chief Minister pointed out that this Bill was introduced last week and is being debated this week, and that is a very valid point. It is a similar situation to the Bill introduced last week by Mr Connolly and debated last night to amend the Crimes Act to allow police to charge people with fighting. That Bill recognised a problem that had occurred recently and tackled it immediately. That is why all members of the Assembly were prepared not only to support it but also to act quickly. Similarly with this Bill, a problem has arisen and it has been dealt with quickly and put right.

I appreciate the support of members for what is obviously a non-controversial Bill. That is quite different from some of the Bills that are coming before us this afternoon. However, far be it from me to pre-empt anything on the notice paper. I know that this Bill will allow people who are dealing with a quite difficult study to ask some people who operate outside the law - people who are either dependent or non-dependent drug users - to give information openly, knowing that they are protected. The real punch in this amendment is that they will know that they are protected, without the doubt that was hanging over them before, which Ms Follett identified. Members' support is greatly appreciated.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

STANDING ORDERS 171 AND 172 - PROPOSED AMENDMENTS

MR STEVENSON (10.38): I move:

> That standing orders 171 and 172 be omitted and the following substituted:
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> > 171. When a Bill has been presented, the Member shall move - "That this Bill be noted", and the debate on the question shall then be adjourned for a period of not less than 14 days on the motion of another Member. If the question is agreed to, the Member in charge of the Bill shall then move - "That this Bill be agreed to in principle" and the debate on the question shall then be adjourned for a period of not less than 14 days on the motion of another Member.
> >
> > 172. The question "That this Bill be agreed to in principle" shall not be determined by the Assembly within 59 days of the day of introduction, except in the case of a bill declared to be an urgent Bill.

Members, I ask that we give the people of Canberra a Christmas present. What greater Christmas present could we give them - - -

Mr Moore: Are you going to resign? You should resign.

MR STEVENSON: Mr Moore says that I should resign. Let me state again that I will be happy to turn the lights out when we all leave. It is one of my fervent hopes.

Mrs Grassby: You have Buckley's chance, Dennis.

MR STEVENSON: Mrs Grassby says that I have Buckley's chance. That is what they said about the Berlin Wall. That is what they said about the subjugation of the Baltic nations. Time will tell. It is not up to members of this house; it is up to the people of Canberra as to what action they take.

I ask that members of this house give the people of Canberra a Christmas present. What greater Christmas present could there be than a very strong move toward democracy? For nearly four years, I have repeatedly, as have other members in this Assembly, brought up the matter of Bills being passed through this house too rapidly to allow a number of things to occur. Firstly, it would be a good idea if all members of this Assembly read each of the Bills - would that not be a wonderful thing? - so that when we voted on these matters we actually knew what we were voting on and were not taking the advice of somebody else. I understand the time strictures in this house. With this motion I seek to give all members the time, the opportunity, to read the laws they are voting for or against.

The people in this community also need the time to find out that a proposed law has been tabled in this house. They need time to obtain a copy of that proposed legislation. They need time to read it in basic form and to work out what it covers. They then need time to present it to their meetings, if they are involved in a group that may be concerned with the proposed legislation. It is not particularly fair for us to require organisations in Canberra to call emergency meetings so that they can debate these issues, because they do not have the time. It would be reasonable if they had the opportunity and the time to schedule the matter on the agenda of their next meeting.

When they have that meeting, they should have the opportunity to discuss the matter fully. They may seek clarification, as we often do, on various aspects of the Bill. They may want to seek clarification from the presenter of the Bill, from someone else within this parliament, from legal counsel or from some other authority or organisation within the ACT or, indeed, outside it. They should be allowed the time to do that. At present they are not. They then should have the opportunity to meet with their members. We understand that some members here find it difficult to make the time to meet with constituents. We should make sure that they have the time to see us and that we do not say, "I am sorry; I cannot see you tomorrow. The Bill is going to be debated in two days' time, unfortunately". We should allow them the time to see us.

We then should allow them the time to take what we have said back to their groups and to other people in the community who are concerned about the proposed law. If they get no assistance from the member or members they speak to, they should have the right to go to another member or members. This may include a Federal member, depending upon the situation. They then should have the time to have any proposed amendments drafted and presented to members of this house. We would then need time to look at them and determine whether or not they were beneficial to the people of Canberra and to the law.

If they feel that they have not received satisfaction - if it is a matter where the will of the people is not being expressed, if it is a matter where the law is not being upheld, if it is a matter which creates unnecessary and unwarranted consequences that may not have been foreseen by members of this Assembly - they should have the time to inform the general public in Canberra that there are things happening that the public may not know about and may want to know about.

I know that it has been suggested often that the reason some legislation is rammed through this and other parliaments is to prevent this very thing happening. Let us not leave ourselves open to this accusation. Let us ensure that the standing orders in this parliament create democracy for the people of the ACT, in that they have sufficient time to consider legislation. I do not say ample time, because the time allowed, of two months, is not ample. I would like to see it longer. Nevertheless, it would be sufficient time, with most proposed laws, for people in this community to find out what is going on and to do something about it. That is what democracy is about - not the sort of democracy they have in the Soviet Union, where they say that you can vote in democratic elections.

Mr Connolly: There is no such place, Dennis.

MR STEVENSON: I know that the name has been changed; but many of the workings have not, although I would be happy to talk about that at some other time. In the Soviet Union they say that you can vote in democratic elections. Someone asks, "Well, for whom?", and they reply, "For a member of the Communist Party, a single party".

When the Chief Minister and other members of this Assembly talk about consultation, let us show that we mean it by allowing citizens in this community the time to find out about legislation and to take action if they so choose. Let us allow in this Assembly the time for members to read and understand the laws, to have the opportunity to have briefings that the Ministers usually readily make available. Quite often, I must admit, after a briefing you realise that you need another one. So, let us make sure that there is time for that. Mr Connolly smiles. Perhaps I should explain why I think that quite often you need another briefing. You find that the advice you are given does not necessarily conform to the explanatory memorandum, and you say, "If it does not conform to what the tabling information says, perhaps it needs more explanation". The person giving the information may not agree with the explanatory memorandum - and I have had instances of this - and may want to have time to go back to the Minister and clear up exactly what is going on.

Madam Speaker, we understand that members of this house do not always have the time to spend on Bills that we would like. It is an appalling situation when members of this Assembly vote - one could say have to vote, but no-one ever has to vote for a Bill - for a proposed law that may affect the livelihoods of many people in Canberra, without first reading it. In the current situation, it is almost inevitable that that happens. But is it fair? Is it democratic? Is this the sort of situation we believe should be extant in Canberra?

My motion would change the standing orders. It would require that, once a Bill has been presented, the next stage will not be the in-principle debate. We would have an opportunity to raise questions on the Bill. We adjourned a Bill just a few days ago. Michael Moore asked that the matter be agreed to in principle before it was sent to a committee. The idea was that people would not have to commit themselves to specific points but could ask questions, and I believe that some people in this house did ask questions to gain a better understanding of the legislation.

Is it not a good idea to be able to raise questions in the house - not just outside the house, but in the house - in front of the people of the ACT, without having to say that you agree or do not agree, but asking, "What about this position?" or "Perhaps the Minister could explain this, that or the other clause"? All members of the Assembly would be able to hear the comments of other members, without making the statement that we agree or disagree with the Bill. Does that not make sense?

The majority of the people of the ACT, according to our surveys, clearly want a minimum of 60 days - it was actually 60 to 90 days - to be allowed before any legislation, unless approved by an absolute majority in this Assembly as being urgent, is passed through the Assembly; in other words, 60 days from the day it is tabled to the day it is finally debated in the house. Sixty days is not long. We all understand how rapidly that can go by. I finish on what I believe is an extremely relevant point in this debate. Practically every member of this Assembly, certainly the majority, has said at one time or another that Bills are being rushed through this house. I make the point that that statement is usually made when the member is in opposition.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (10.52): Madam Speaker, there is a certain delicious irony about debating this measure this morning, when we have just witnessed a Bill Mr Moore introduced last Wednesday pass this house with no dissent. That demonstrates better than anything that the measure proposed by Mr Stevenson is unnecessary. The fundamental point in this Assembly, as in any parliament, is that the Assembly is the master of its own business. The Assembly decides the rate at which any Bill or measure passes through this Assembly. It is unnecessary to concoct a straitjacket, as Mr Stevenson would do, to require a period of 60 days - I think he said that he would really prefer 90 days, or perhaps 90 years - to prevent debate on any measure. In every case this Assembly decides the rate at which it will progress matters.

A Bill Mr Moore introduced last week, which makes some minor changes to his Epidemiological Studies Act, this Assembly decided with no dissent should be put through. Would that be an urgency matter? Urgency matters in most parliaments are matters that are brought forward to correct a major problem with revenue or a major issue of real public importance. An urgency Bill, when you look at the procedures of other places, usually is a matter of some earth-shattering consequence. Was Mr Moore's Bill that? I think one would be hard pressed to say that it was. There was a matter that should have been addressed. He addressed it in the Bill. Members here had a look at the matter and were happy to put it through, showing, Mr Stevenson, the flexibility this chamber has in dealing with matters.

Mr Stevenson made reference to a Bill we debated last week. Without wishing to recanvass the issues, again the irony was that we were talking about a Bill that had been out in exposure draft form since at least February of this year. It had been out and about, with the exception of a few clauses we changed, for some 10 months. We took a different view. We thought it was appropriate to debate it; but this Assembly decided, "No, we will not deal with that Bill; we will refer it to a committee".

This chamber has total sovereignty to decide how it deals with matters as they emerge. It has demonstrated that flexibility, just taking those two measures. A measure Mr Moore introduced last Wednesday passed this Wednesday. Indeed, the "fight in a public place" law, which I introduced last Thursday, passed yesterday. Again, would one get that up, in the normal forms of a house, as an urgent Bill, with all that that entails? Possibly not. But it was a problem members unanimously thought should be addressed. Members had a look at the matter and they were happy to pass it last night without any dissent. So, there are two examples of Bills that have passed within a week of introduction.

Then there is the Adoption Bill, a matter which had been out in the public forum for quite some time. Again, I do not canvass the merits of the decision members made, in order to stay within standing orders; but members decided, in their wisdom or otherwise, that it should be referred to a committee. We said in that debate that the concept of referring a substantive Bill to a committee was one that the Government does not cavil with, although on the merits of that particular Bill we took issue.

We have said in the chamber, and I have certainly said it to members outside the chamber, that some of the measures we have flagged on our legislation program might be referred to a committee, a good example being our de factos legislation. When that comes in it will be a quite significant piece of law reform. It will make important changes to the civil law, and it might be appropriate, when I bring the Bill into this chamber, for the Assembly to refer it to the Social Policy Committee or a select committee. Indeed, the Assembly might want to operate committee of the whole procedures to debate it. There is a range of measures available.

I come back to the fundamental point that this Assembly, like any parliament in Australia, is the master of its own business and can decide flexibly how it deals with matters. Given the fact that this is a chamber in which no party has a majority, to use the rhetoric of ramming legislation through is rather fanciful. This Government does not have the ability to do that, even if it wanted to. Quite often, we would want to.

Mr Stevenson: I admire truthfulness from the Minister.

MR CONNOLLY: Unlike Mr Humphries, I am honest while I am in government as well as in opposition. That can sometimes be frustrating for executive government. Members opposite who have been in executive government would know that there is always a certain frustration in the process of getting Bills before the chamber, and once you get them here you want them dealt with quickly. While we may often want them to be dealt with more quickly, we acknowledge that this chamber sets its own timetable. We would say that it is better that that be flexible rather than have the sort of straitjacket that Mr Stevenson wants to introduce, because it introduces this artificial element of having to declare a Bill to be urgent.

On the way that other parliaments deal with urgency matters, I would argue that most of the matters we have dealt with swiftly between introduction and passage have been matters that probably would not be urgency Bills. Last week we dealt with the amendment to the Bail Act. That was the sort of thing that probably would stand the test of an urgency motion in any other parliament. It corrected an unforeseen consequence of the original Bail Act. Again, it was introduced and passed within a few days, with the support of opposition and independent members. That one, I grant Mr Stevenson, probably would stand the test of urgency in any other parliament because it was correcting an error. But some of the other things that we have debated within a quite short framework would not.

Madam Speaker, I am not sure what attitude the Liberal Party is going to take to this measure. I hope that it will take the attitude of a major party which has been in government in the past and which no doubt seeks to be in government in the future, rather than wanting to play some politics in this. I thought it might be prudent, because I somehow thought we might be debating issues of fast-fast-slow-slow-fast-fast in the Assembly this week, to have a look at what happened in the last two sittings - - -

Mrs Carnell: Why? Because you are ramming Bills through?

MR CONNOLLY: As I said in the debate the other day, the handbook on how to conduct yourself in opposition is a book which, given the ABC reports this morning, I would commend to most members opposite - although one member did get a very good individual report card. One of the things that handbook says is: If you have nothing to say, complain about the speed of government business. You have two options: The Government is going either too fast or too slow. On any given Bill, when you have no other criticism or nothing to say, you can usually filibuster on one or other of those two arguments. This Opposition has advanced that to the fine artform of often being able to say "too slow" and "too fast", almost in the same breath.

I thought it would be useful to see what the Opposition's record was. I looked at the *Hansard* for the last two sitting weeks in 1990, which was the time when the ramshackle Alliance was still steering the ship of state in concentric circles. In those last two weeks there were 13 measures - there may have been more, but I can identify 13 measures - that were introduced and passed. Two of those were introduced and passed in the last week, and one was quite significant - the reduction of the blood alcohol limit from .08 to .05.

Mr Kaine: Quite urgent; an urgent Bill.

MR CONNOLLY: It was, and it was one that the then Opposition supported. The other matter related to the Magistrates Court.

Mr Kaine: It would have gone through whether you did or not, I remind you, Mr Connolly.

MR CONNOLLY: Mr Kaine obviously enjoyed attempting to ram things through, and to the extent that he could depend on his numbers in that arrangement he tried to do it.

There were 11 other measures that were introduced in the penultimate sitting week and passed in the final sitting week. They included some extraordinarily major Bills, such as the Territory Owned Corporations Bill, which effected a major change to the way statutory organisations can conduct themselves. That is an issue of clear partisan divide between Labor and Opposition, and we have indicated that we are changing the TAB in that direction. I indicated earlier on that we would not be moving ACTEW to that TOC form, that we would keep it as a statutory authority.

Mr De Domenico: Because certain people told you that you were not allowed to do it.

MR CONNOLLY: I was always saying that, Mr De Domenico. So, a major piece of legislation, effecting a major change to the way commercial business enterprises are run, was introduced in the penultimate week and passed in the final week. If the Opposition is going to do some grandstanding and support Mr Stevenson's measure, it ought to examine its conduct when it was in office. There was a major Bill - the type of legislation Mr Stevenson would probably say best exemplifies his concern - a Bill making enormous changes to the way aspects of the city are run, introduced and passed in two sitting weeks by the Liberal Party. Liberal Party members, if you are going to put your hands up for Mr Stevenson, you had better examine how you conducted yourselves then.

Another Bill introduced by Mr Humphries in that penultimate week and passed in the final week, the Health Services Bill, made enormous changes to the way one of the most contentious areas of public administration, no matter who is in government, is administered. On the Territory Owned Corporations Bill, at the end of the day the Opposition allowed that; we did not object to that in principle. We raised some concerns, but we did not vote against it.

On the Health Services Bill, we did have a number of substantive concerns. I think Mr Moore had a few as well. That was a very long debate. It was debated over two or three days, with debates often going through till nearly midnight. In that last sitting week of 1990 we were all here very late for a number of nights. Again, a substantive piece of reform introduced by Mr Humphries, the Liberal Minister - exactly the sort of Bill that would, under Mr Stevenson's test, have required adjournment out to committee or two months of community consultation - was debated out within two weeks. On that measure we raised a number of substantive amendments; some clauses we supported, some clauses we sought amendments on. I cannot recall; there may even have been a couple of changes achieved as a result of that debate. But a major debate occurred.

If the Liberal Party today is going to say, "Yes, we support Mr Stevenson; it is a matter of high principle that legislation not be introduced and passed other than within a two-month timeframe", they really would have difficulty looking in that mirror and seeing what they did when they were in government. Madam Speaker, I am not criticising what they did when they were in government. At the time, the Opposition supported most of those measures. We may have gone out and opened our "How to Conduct Yourself in Opposition" to the fast-fast page and made a few points like that, but the *Hansard* will show that in the chamber the Opposition debated each of those Bills on its merits. I do not think we even attempted then the ruse of referring them to committees.

This Assembly has demonstrated that it will look at each Bill on its merits. In the case of the adoption law, after quite heated debate in this place and agitation in the public forums, this Assembly decided that it wanted to refer that to a committee. On the other hand, in a couple of measures we have exampled, including one passed this morning, this Assembly has taken a measure that was introduced last week and passed it this week. In every case, members, it is up to you individually, it is up to every one of us, to decide the speed at which we pass Bills. This Assembly has demonstrated that it will look at legislation and make that decision.

No ramming through of legislation, Mr Stevenson, can occur in this Assembly. It is simply not a factor that can occur, given the make-up of the Assembly. To attempt to change the standing orders to apply the straitjacket you propose would cause significant delays to the advancement of public business or would force us to use the ruse of urgency motions. All but one of the examples I have given where this Assembly has decided to allow a Bill through with only a week's or a couple of weeks' notice are Bills that you would be stretching it to describe as urgent. They were sensible measures of reform to public administration that members were comfortable to debate, having acquainted themselves with the issues fairly briefly, having taken whatever briefing they wanted; but they were not measures that fell within the test of an urgency motion.

Mr Stevenson, you really almost have to acknowledge that if your measure were to pass you would be forcing us to make a farce of the process of an urgency motion, and that would not be in anyone's interest. Again, I say to the Liberal Party: If you are going to get into highfalutin rhetoric about the importance of lots of time for consultation and having two or three months for matters to be fully debated, you really have to look hard at yourselves. In the example of the 13 Bills that were passed in the two sitting weeks in 1990, just two of those 13 were major measures that made significant changes to the public administration of this Territory. The Territory Owned Corporations Bill and the Health Services Bill both went through this Assembly process without the sort of straitjacket Mr Stevenson is proposing. You can hardly support Mr Stevenson's proposal and justify your actions when you were last in government.

MR KAINE (Leader of the Opposition) (11.07): Mr Connolly used an interesting ploy to debate this motion, not by debating the motion but by setting up a straw man and then attacking the Liberals on the basis of his own straw man. He talked about the quick-quick-slow-slow policy of the Liberals. He obviously never learnt to do what in my day was called the modern waltz; it was slow-slow-quick-quick-slow. You obviously do not have much rhythm, Mr Connolly. We know that, when it comes to this sort of thing, for the Labor Party it is one step forward and five steps back, because the trade unions or some other lobby group tell them that what they did was wrong and so they back away.

It was an interesting ploy. Mr Connolly said, "If you, the Liberal Opposition, are going to support this motion, then you are wrong". Then he spent 10 minutes trying to demolish the Liberal Party. He would have been much more persuasive if he had actually addressed the motion Mr Stevenson put to the Assembly rather than making this into some sort of political debate between the Labor Government and the Liberal Opposition. There is no debate, and the reason there is no debate is that the Liberal Party in opposition does not support this motion either. So, your straw man was nothing but a straw man.

Mr Lamont: You have convinced them. The power of persuasion of our Attorney!

MR KAINE: There was no persuasion at all. He was off on the left foot, instead of on the right foot, right from the start. He added nothing to the debate but merely turned it into some sort of political harangue. The fact is that the Liberal Party does not support this either, because it puts the Assembly into a straitjacket. It sets down timescales which in many cases would be totally inappropriate. The Liberal Party solution is totally different. Contentious legislation is brought down where the Government desires, for its own reasons, to move it through quickly and the Opposition has equally good reasons why it does not believe that it should be allowed to go through so quickly. There may be matters that are unexplained, ramifications that we do not understand - and often, I think, ramifications that the Government itself does not understand.

The way to deal with that, and we have put it forward before, is to refer that sort of contentious matter to a committee to review people's concerns and make sure that it is properly dealt with. When it comes back to the Assembly, the contentious issues have at least been dealt with. We still may not agree at the end of the day; but we have had an opportunity to air the differences, not in the heat of the moment, not in the public gaze here on the floor of the Assembly, where it can often be quite unproductive.

That procedure would allow us to refer things to committees on a selective basis. Not everything would go to a committee. In fact, probably a minority of pieces of legislation would go to a committee. As long as the Liberal Party in opposition can see what the Government intends to do, as long as it is clear, as long as there is nothing we find incomprehensible and in general terms we can accommodate them, we will not even oppose the legislation. We have demonstrated many times that, where the Government is seen to be doing something which is useful, even though we do not necessarily agree with the philosophy behind it, we will support the Government's legislation.

Mr Connolly tried to make something of the situation two years ago when the Alliance Government put through quite a deal of legislation. We believed at the time that it was necessary, and the drink-driving one was a classic one. Christmas was on us. We had a bad record in the past in terms of drink-driving, we thought something should be done about it right then, and we achieved that. We have a record of putting through legislation when we think it needs to be done. But we believe, and it will come up in the debate later today, that with a number of the Bills the Government has put before us in the last few days and which they wish to pass this week there is no urgency. If there were, we would take a different view. The Government has not attempted to establish urgency, and it is within their power to do so under the standing orders if they think it is a matter of urgency. We have not had an opportunity, in the short time available, to explore just what the consequences of the Bills are likely to be.

Under those circumstances, no opposition with any sense of responsibility is going to agree to their being passed because the Government thinks they should be passed today or tomorrow. We would be abdicating our responsibility totally if we agreed to such action. We will be suggesting to the responsible Ministers, first of all, that there is no urgency and, secondly, that there are matters that we believe need to be explored before those Bills are endorsed by this Assembly.

Some of them it might be appropriate to refer to a committee for detailed examination. I do not think there are any - off the top of my head, I do not recall one - but it may well be appropriate. If that is the case, we would suggest that those Bills go to a committee.

I agree with Mr Connolly that the intent of Mr Stevenson's motion is to require that every piece of legislation go through a fixed process with time limitations on it, and that, in my view, is totally inappropriate - - -

Mr Stevenson: Not every; urgent.

MR KAINE: You are talking about 59 days before the Assembly can do things. I think that is a very arbitrary figure, Mr Stevenson. I understand what you are trying to do, and the Liberal Party in opposition agrees entirely with the general thrust of what you are trying to achieve - that the Assembly have a reasonable and proper time to examine legislation. We agree with that.

We do believe, as Mr Connolly has indicated the Government believes, that you are trying to impose too rigid a regime on us. Things can be done more quickly than that in many cases, even with a contentious piece of legislation. There is no requirement to set a prescriptive 40 days, 50 days, 60 days or 70 days which must be blindly adhered to. That is the bit that I find difficult. The Liberals will not be supporting the motion, although we do support the general thrust and intent of the objective Mr Stevenson is trying to achieve. We just think he is trying to do it by the wrong methodology.

MR MOORE (11.14): We hear both the Labor and Liberal parties standing to support the intent of what Mr Stevenson is doing; but they are not happy with the rigidity of the regime it would impose, and I echo those sentiments. The question that members of the Labor and Liberal parties perhaps misunderstand is why it is so important to Mr Stevenson. It is important to Mr Stevenson because he operates very differently from the way we operate. I believe that I was elected to use my judgment and that I will be either re-elected or not elected, should I stand again, on how I have used that judgment. That is the system that works.

Mr Stevenson, however, does not want to make any decisions. What he prefers to do is to go out and poll the people and ask the questions he wants to get the answers he wants, so it all appears to be above board. Mr Stevenson also says that the most effective way of doing it is to conduct a referendum; but, on the very first opportunity that he had to vote on a referendum, the reality was that he voted against the result of that referendum. That illustrates a point that is most important, because Mr Stevenson's rationalisation of that was, "Yes, but the wrong questions were asked". That will always apply to referendums. If you do not like the result of a referendum, you will always be in a position to say that the wrong questions were asked.

Similarly, while Mr Stevenson goes out and polls people, and it is his right to adopt that technique, he needs extra time to be able to do that. As far as I am concerned, it is not good enough for the rest of us to be tied to a rigid system so that Mr Stevenson can go out and poll the people of Canberra.

Mr Kaine: We do our Gary polls too, and we do not take 59 days.

MR MOORE: The interjection from the former Chief Minister gives us now not only a Dennis poll but also a Gary poll. Now that Gary is in opposition, he can be honest about the way he asks the questions. When he next comes into government, will he continue to be honest or not?

Polling is a technique that Mr Stevenson uses, and I understand that there are people in Canberra who think it is a very good idea - in addition to Mr Stevenson himself. I have spoken to one of them, who may be the only such person - but that is another question. I think the real intent behind this motion is to give Mr Stevenson the time to be able to do the polling. Whilst it is important at times to be able to deal flexibly with Bills, it is also important for us, where possible, to give the appropriate amount of time for community consultation. If Mr Stevenson's form of consultation is polling, that is fine. Others of us prefer to send copies of Bills to key players for their comments, and to discuss them with our advisers or with people who we think may have some contribution to make. Like Mr Connolly and Mr Kaine, I feel that the sentiment of Bills having a reasonable amount of time on the table is appropriate. This system, however, is much too rigid.

MR HUMPHRIES (11.18): Although Mr Connolly probably sees himself as a latter-day Australian Kennedy figure, I must say that I am glad that he was not living in an age when he might have been President of the United States, with his finger on the nuclear button. He probably would have launched the missile against the Soviet Union several times as a pre-emptive strike against what they might do. Certainly, a pre-emptive strike is what he launched today.

Mr Kaine: Against an enemy that did not exist.

MR HUMPHRIES: It did not exist. If he had cared to discuss it with the Opposition, he might have found that that was a little premature, and he could have saved his ICBMs until the next occasion.

Madam Speaker, we agree with the diagnosis of the problem that Mr Stevenson has brought forward today, but we disagree with the treatment. We have a huge concern about the program and the way the Government has put it forward. I want to make a brief comment about this old quick-quick-slow-slow furphy that keeps coming out from the Government and their concern about the fact that we give them advice on occasions to speed things up and on other occasions to slow things down. If they have any genuine concern about what we over here think on that question, they might care to take this piece of advice.

We think that legislation of an important nature for the future of the Territory ought, as a general rule, to be brought forward into the public gaze as soon as possible. Clearly, a lot of work has to be done to get legislation into a state where that can happen. Sometimes it is the actual legislation the Government wants to pass; sometimes it is an exposure draft of legislation; sometimes it is just a discussion paper so that people can see what general concepts are being talked about. In any case, we argue consistently for that to be brought forward as quickly as possible - this is the quick-quick part - into the public gaze so that the community as a whole has a chance to talk about these issues. That is our position in the Liberal Party.

What we do say on top of that - this is where the slow-slow part comes in - is that it needs to be in that public gaze for sufficient time for people to recognise what it is they are dealing with. We are completely opposed to a process where the Government takes months or even years to develop legislation and then expects the Opposition and the community to swallow the legislation, just like that, without the time to understand properly what it is that the Government has actually done. That is quick-quick-slow-slow, but the formula is pretty clear. If the Government cannot understand that, they are not as intelligent as they make themselves out to be.

We have a concern about the haste with some Bills. We feel that there has been a level of concern, not just here but in the community as a whole, about that. For example, I spoke yesterday to a prominent Canberra lawyer about a piece of legislation before the Assembly. I explained that I would appreciate his opinion on this piece of legal legislation and he said, "I will get back to you in a few days". I said, "I am sorry; the legislation is due to be debated in the Assembly this week". He said, "What has happened with this Government? Why does this Government feel the need to ram legislation through at a hundred miles an hour when the consequences are quite significant?". Naturally enough, I had no answer to that question.

If Mr Connolly or other Ministers who have responsibility for those sorts of Bills cared to talk to members of the community, such as this lawyer, they might appreciate that there is some concern about it. It is not just us mouthing off about having to deal with Bills in a short period of time.

Mr Connolly: It was not Bill Stefaniak, by any chance, was it?

MR HUMPHRIES: No, it was not Mr Stefaniak. It is not just us mouthing off about that; it is a general concern of a large number of people in this community.

Mr Wood: What was the Bill?

MR HUMPHRIES: It was the Crimes (Amendment) Bill (No. 3), as a matter of fact - the one we passed last night. This was a prominent criminal lawyer in the ACT whose opinion I think you would respect, Mr Wood.

We have had to come back to this place, I remind members, to fix up defects in Acts that we have not picked up because of the speed with which those Acts have been passed.

Mr Connolly: With both governments, yes.

MR HUMPHRIES: Mr Connolly makes a point about our not picking up those mistakes either. I quite agree.

Mr Connolly: No; I said "for both governments".

MR HUMPHRIES: For both governments, yes. We have both had to fix up problems, and it is a message to both of us that perhaps a little longer exposure in the public arena might just have avoided the need for that to happen. Last week a piece of legislation had to be passed very quickly to correct the situation where in domestic violence matters we were charging people with assault, whether they deserved to be charged or not. We were charging people in certain circumstances without justification, in order to fix up a problem with our legislation.

The Chief Minister looks puzzled about that, but that is what the Attorney-General announced in the chamber. He had instructed his department to issue assault charges against men - - -

Mr Connolly: If there had been an assault; if there was violence.

MR HUMPHRIES: If a situation occurs where you do not know what has happened, you do not normally charge someone with assault. If it is only apprehended violence rather than physical violence, presumably that assault charge would not be warranted, would it?

Mr Connolly: The assault charge was laid if there was an assault.

MR HUMPHRIES: We do not know what happens until we get the people in the witness box to find out. Presumably, sometimes we find ourselves doing strange things, going through strange contortions, in order to address these sorts of problems. That is exactly what has happened in this case and it is exactly what we should be avoiding. We should not have to tell police to charge people with assault as a way of dealing with a temporary problem with a piece of legislation. We should, as a matter of preference, fix the piece of legislation before it comes to the Assembly.

We obviously have the problem that we sometimes need to deal with things very quickly, and for that reason, as Mr Kaine indicated, the Liberal Party does not believe that it can support the particular treatment of this problem that Mr Stevenson has brought forward. There are some pieces of legislation that have to be dealt with within a shorter period of time than this motion would contemplate. Certainly, there are times when Bills need to be dealt with expeditiously, either because of some detected problem or because the benefit of the Bill needs to be brought to the community as a matter of priority, and delay does not of itself serve any particularly useful purpose.

For example, the Crimes (Amendment) Bill (No. 3) which we dealt with last night was a very short, self-explanatory piece of legislation. We acknowledge the urgency with which it was generated and we acknowledge that there was an argument for bringing it forward quickly. I might say at this stage that there are other pieces of legislation on the notice paper which simply cannot carry the same description and, therefore, I do not think they will be dealt with in the same way.

Mr Connolly made some facetious comment about Mr Stevenson preferring 90 years to 90 days. For all the scorn he poured on the suggestion, I have to say that I am much more comfortable with the kind of caution Mr Stevenson wants to put in place than with the recklessness this Government has shown. This is a Minister who proudly trumpeted the fact that he introduced - what was it? - 17 Bills in 59 minutes, a new world record for introducing legislation. That is the kind of attitude which, unfortunately, has often left us in the position of having to pick up the pieces after legislation has turned out to be defective in some way.

We do need to consider pieces of reform such as Mr Stevenson has put forward today, but I do not think this is the answer. We do set out our own timetable in this chamber; that is quite true. But I must say that I am a little concerned about what might be the case if this were not a minority government but, rather, a majority government. Perhaps, in those circumstances, a piece of reform - - -

Mr Lamont: It is a luxury you will never have, Gary.

MR HUMPHRIES: We have once before, Mr Lamont, and we just might again. Madam Speaker, we can see some benefit in having clear rules laid down in the standing orders. Perhaps we should revisit this question if the problem continues to fester. For the time being, I think we can exploit the situation we find ourselves in, which is that the Government is a minority government, to establish a set of standards which I hope will be the standards for governments on this side of the chamber and on the other side.

MR LAMONT (11.27): This is an extremely important debate for the Assembly. Notwithstanding that the Liberal Opposition have indicated that they will be voting against the proposition put by Mr Stevenson, and Mr Moore has indicated that he will be voting against it, it is nevertheless an extremely important matter for us to discuss and debate. It requires us to lay bare the bones of how the Government works, how the administration works, in relation to its legislative program.

If you lay those bones bare, you find that there are four major sets, if you like. The first is the proactive legislation that is introduced, where a government has a particular policy, particularly in relation to things such as social policy, that is arrived at after considerable party or individual member debate within members' own networks and is put up as part of an election strategy. That is the type of proactive legislation that governments tend to introduce. I might also say that it is the type of proactive legislation that Independents, members of minor parties and the Liberal Opposition also attempt to introduce through private members business.

The second category is reactive legislation, which is probably no better demonstrated than by the Bill that was passed this morning, and is similar to the Bill that was passed last night. That legislation covers circumstances where, for whatever reason, it is essential that this legislature redress or rectify a particular anomaly or error or omission. It has to be acknowledged that, where that omission or error has been recognised and needs to be redressed, a period of contemplation, to put it kindly, as proposed by Mr Stevenson is quite patently unwarranted. Therefore, the strictures placed on this legislature by the procedures outlined in Mr Stevenson's proposition would be a nonsense.

The other two planks are revenue and expenditure, which are principally dealt with through the budget process. In relation to revenue and matters affecting money, we see a raft of legislation coming forward over the life of any Assembly, outside the strict presentation of the budget and its scrutiny by the appropriate committee of the Assembly. To name one that is on the notice paper at the moment, if we look at the proposal for the Ambulance Service levy - without wishing to debate the merits of that proposal, which I am sure we will take delight in doing this afternoon - we can address that issue without the strictures proposed by Mr Stevenson's motion. It is a simple proposition, and one that I am sure Mr Kaine would agree is easily understood, even by the Opposition.

Lastly, the expenditure Bills that are introduced into this parliament through the budget process are probably subject to the most scrutiny. They have a particular process, in terms of their passage, that is quite clearly identified in the way in which we conduct our business. Those are the four planks of the legislation programs that I have encountered in this Assembly.

There are a number of other points we need to bear in mind. Firstly, this is a political arena. We do play politics. Politics are part and parcel of every single decision and process that occurs in this place. It is the responsibility of oppositions to assess pieces of legislation, to assess the legislative program, to assess the direction of government and, where it deems it necessary, to put forward counterviews. We have heard this morning on a popular non-commercial radio program that that has been a significant failure of the Opposition. They have failed to do that. All we have had is an exercise in carping over the last nine months. There has been no constructive criticism or debate by the Opposition on the possible alternatives that may exist.

It is in that way that we are able to address the pros and cons of the legislative program the Government is undertaking. If there is a positive or constructive view being put by the Opposition, we may be able to say that there needs to be a particular process within the chamber to deal with those constructive views. That has not been the case. Let us face it; if you look at the score they ended up with, which I think was a six, two of those points were for Mr De Domenico and the other four were for the two Independent members of the Assembly. That does not say too much about the rest of the team on the other side.

Mr Wood: What is this team business?

MR LAMONT: I am sorry. I would probably have to take another Gary poll to see whether those figures are accurate. I dare say that they would be. I thought, Mr De Domenico, that two was a pretty high score; but only one of the commentators gave that.

Mr De Domenico: I am still waiting for you to talk about the matter before us, so that we can assess what you have to say.

MR LAMONT: The simple problem with this proposition is that it does not take into account the basic operations of this Assembly. I think Mr Moore's comments were quite accurate when he said that this proposal reflects the modus operandi of Mr Stevenson. Mr Stevenson has said, "The people of Canberra deserve a Christmas present. By passing this motion we can give the people of Canberra this Christmas present". Mr Stevenson, 91 per cent of the Canberra population do not want your Christmas present.

Mrs Grassby: They do not want him.

MR LAMONT: That is exactly the case. So, 91 per cent of the people in the ACT, at the last referendum about this question, quite clearly said, "In principle, it is the policies of the Opposition, the Government and the Independents that we want to see introduced". That referendum quite clearly shows that your proposition, and the reasoning behind your proposition, is flawed. It is not giving the people of Canberra a Christmas present to support that. I believe that it puts this whole process into a straitjacket, the likes of which we saw in the last Assembly. Despite his short term as Chief Minister, I am confident that not even Mr Kaine would want to see us back to the absolute nonsense we encountered during the last Assembly as far as the business of this chamber or the business of this Assembly is concerned, as opposed to the business conducted within the chamber.

It is important that this debate be held; it is important that those issues be placed on the table. But it is equally important that we are flexible enough to take account of the differences that exist in the requirements for this Assembly to consider the varying types of legislation that come before it. To impose the stricture Mr Stevenson is proposing is unfair and, in my view, unwarranted.

MR DE DOMENICO (11.37): Madam Speaker, I am going to be very brief. In fact, I was not going to contribute to this debate at all, because I think my colleagues Mr Kaine and Mr Humphries quite aptly put the position of the Liberal Party. However, I must rise to say that a lot of the things Mr Lamont had to say I vehemently disagree with, and a number of members on both sides of the house might tend to agree with me. Mr Lamont said that every decision made in this place is a political one. I dare say that that is not the case. Mr Lamont will realise that some of the decisions made in committees and other places from time to time are a long way from being political decisions. They are decisions made on commonsense, most of the time, one would hope.

I was in doubt as to the motion we were debating when I listened to Mr Lamont. He went on to attack Mr Stevenson personally, as is the wont from time to time of other members of this Assembly. That is fine; if he wants to do that, that is his prerogative. He mentioned percentages and polls and all sorts of things. For Mr Lamont's edification, perhaps he should have mentioned percentages and what people in Victoria thought about eight weeks ago. If one is to draw a corollary from his views of percentages, he should have mentioned what happened in Victoria as well.

To get back to the matter before us, as Mr Kaine and Mr Humphries quite ably put, the Liberal Party is very strongly with the sentiment Mr Stevenson brings forward in his proposed amendments to the standing orders. However, we will not be supporting Mr Stevenson's amendments, because we think they put too much of a restriction on what can and cannot be done in this house. However, the sentiments Mr Stevenson is attempting to convey here are supported by the Liberal Party, and perhaps by all members of this Assembly. There is no doubt that we need the ability to scrutinise legislation until we are satisfied that the interests of all the constituents we are here to represent are represented.

It is a fact of modern democratic life that parties that are in government have at their disposal a host more resources than members of the Opposition and Independents, and so be it. That is something we have to accept because the people of the ACT want it that way. However, as a member of the Liberal Party - and I am sure my colleagues will agree - I will not debate any piece of legislation in this place unless I am satisfied that the people I have been elected to represent have had ample opportunity of having a look at it, considering it, and then coming back to me with their views; and after that, that I have ample opportunity to go through the normal processes, whether it be moving amendments or debating the issue on the floor of this house or through a committee. Until I am satisfied that all those things happen, I will refuse to debate Bills in this place. It is not a matter of shying away from responsibilities or anything of that sort. It is making sure that we are committed to our responsibilities as members of this place.

For Mr Lamont to say, on the one hand, what an important issue this is, and then to waste our time for about 10 minutes with personal invective about various members of this Assembly, I think, is a shame. However, as it is his wont from time to time, and that of other members, there is nothing we can do to stop him doing that. That is the beauty of democracy. The Liberal Party will not be supporting Mr Stevenson's amendments. However, his sentiments we certainly do support.

MS SZUTY (11.41): Mr Stevenson has proposed a motion about which I too feel strongly. I have spoken on the matter on several occasions in this Assembly, most particularly during a matter of public importance debate in June, when the issue was raised by Mr Stevenson, and also in the debate on the matter of public importance raised last week by Mr Humphries on the legislative program.

Philosophically, like other members, I tend to agree with Mr Stevenson's position in that it is ideal if Bills are considered carefully in a number of stages - the in-principle stage and the detail stage - before a decision is reached on them. In the platform on which I stood for election, the Michael Moore Independent Group indicated a preference for Bills to lie on the table for a considerable time prior to debate. This enables a number of things to occur. It enables the Bills to be read carefully, briefings to be obtained by members, discussion with community interest groups and individuals to occur, discussion with other members of the Assembly to occur, draft amendments to be proposed, and speeches, ideas and thoughts on the issues contained in the Bills to be prepared for debate.

However, I also acknowledge that there are times when matters need to be dealt with expeditiously. Mr Connolly referred to two examples, which I would also like to quote: This morning when Mr Moore proposed his Epidemiological Studies (Confidentiality) (Amendment) Bill 1992, a matter which was brought on relatively quickly; and yesterday when we were debating the Crimes (Amendment) Bill (No. 3), which was introduced by Mr Connolly last week. The Government also has the right, I believe, to declare Bills urgent and to deal with them expeditiously, and that is a point Mr Stevenson acknowledges in his motion.

Last week, in the debate on the Government's legislative program, I made the point that it is the Government that has control of its legislative program, and it is important for the Government to order its agenda so that Bills can be dealt with appropriately by this Assembly. Mr Connolly's comments also referred to the role this Assembly has in deciding its own destiny. Speaking, if I may, on behalf of some of the members of this Assembly, we would take the view that we do not necessarily wish to hold up government legislation for no perceived purpose. We consider legislation in this place seriously, and I believe that many of us do not see the process as a political point scoring exercise. I think the consideration of Bills in this Assembly is best done through some negotiation, with regard for other members' timetables in dealing with legislation.

Madam Speaker, I will not be supporting Mr Stevenson's motion, as I regard it as being too prescriptive. However, I believe in the ideal, as other members have stated, of ordinarily considering Bills over a longer, more reasonable timeframe. I believe that our request for a longer period to deal with Bills in most instances is a consideration that needs to be taken on by the Government in this Assembly.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (11.44): Mr Stevenson, during his speech, commented about how democracy works. This, he said - referring to his proposal - is how democracy works.

Mr Stevenson: Fair go!

MR WOOD: They are the words you used. This gives me difficulty. If we look at the ACT, Mr Stevenson did not and still does not want the ACT to be a democratic city-state. He ran two election campaigns saying, "Let us not have it. Abolish self-government". He argued vehemently that we should not have this Assembly. He has stood up on no small number of occasions in this Assembly and said that we do not need to be here, and he made some brief reference to that again today.

Mr Stevenson from time to time takes lines that are inconsistent, and we had an example last week in comments he made about censorship. Indeed, Mr Stevenson follows this strange path in the Assembly, as in the community. In the first instance, he uses the processes of the Assembly - for example, in the anti-pornography campaign and the Bills he brings up to abolish X-rated videos - as he is entitled to, to carry his campaigns. At the same time, he says that we should not have this Assembly. This seems to me to be a rather strange mixture. In some ways, it seems to be some sort of fifth column at work, although Mr Stevenson is very open in what he does, or in much of what he does.

How does democracy work? The fact is that democracy works in a great variety of ways. I am a part of the democracy in this Assembly as I am an elected representative of the people of Canberra. Another aspect of our democracy is the openness of the system here. I think democracy becomes a difficult concept when matters are closed. Mr Stevenson has the view that we should go out to the community and conduct polls, and a great deal has been made of that in this Assembly. I have the view that polling is a dangerous path to follow in many circumstances. That is not to say that I have any opposition at all to consulting the community and finding out what the community wants; but to govern by polls, I think, is an undesirable way to go.

As a representative, I would reserve the right not to accept an overwhelming community view where my judgment says otherwise. There are outstanding cases in history where parliaments or assemblies of some sort or other should have rejected what seemed to be an overwhelming community view. I reserve the right not to accept what appears to be the popular opinion of the time.

At the same time, as we demonstrate in this Assembly, we maintain the closest links with the community. I spend much of my time talking to groups in my room upstairs, going to groups in the community, listening to groups, assessing what people say. That does not mean that on every occasion I can say yes to people. It is as simple as that. We cannot say yes on every occasion. I recall the last two American elections. In the election before this recent one, President Bush said, "Read my lips. No more taxes". That was an impossible promise to give. He could not keep that commitment, and he lost a lot of reputation as a result. If I went to the public and did a poll on taxes, I can tell you fairly reliably, I would think, what the answer would be.

I think Mr Stevenson misunderstands - no, I do not think he misunderstands, because I think he does follow what happens here. He knows how this place works. He has put himself in a difficult position with this proposal by assuming that all Bills are the same, that they all have to be put off for at least 60 days. But not all Bills are the same. There is a tremendous variety. They differ one from the other. Let me give a couple of examples. Today or tomorrow I will be raising again the Land (Planning and Environment) (Amendment) Bill to change the way I table leases in this Assembly. That is something that I would expect, after comments around this Assembly, would be dealt with fairly quickly. It is not a significant piece of legislation, I have to say.

Another piece of legislation I have is that affecting the proposal we have for an environmental commissioner. Whereas I would expect the leases matter to be dealt with quickly, and it would be ludicrous to delay that for 60 days, my proposals for an environmental commissioner need a great deal of public comment and wide discussion. For that reason, I will put out a discussion paper on the environment commission. I am spreading it around as widely as I can, to get comment. When that is done we will draw up legislation based on that discussion paper and comments that result. I have not decided whether I will put the legislation out for public debate or table it in here, and I do not expect that when I table it here eventually I will want to deal with it overnight. But I do expect that, having had that circulated widely in the community, and it appearing as a form that is acceptable to as many as possible, it will be dealt with within the Assembly. It is a different matter. It is not proceeding rapidly, nor does it need to.

For Mr Stevenson to want automatically to put away for 60 days every Bill that comes before the house fails to recognise the way this Assembly works. It is unrealistic and impractical, and I think it is a matter of Mr Stevenson following his political line.

MRS GRASSBY (11.52): Madam Speaker, I find this absolutely incredible of Mr Stevenson. We all know that Dennis takes Dennis polls. What he does not understand is that, between the Liberal Party and the Labor Party, we have 5,000 to 6,000 card-carrying members of our parties. That is a lot more than you have ever polled, Mr Stevenson. Both the Liberal Party and the Labor Party already have views on Bills that are going through this house.

We are parties who have been around for a long time, whom people understand. We are not fly-by-nights like Mr Stevenson, who comes into this house and is here for a short time and then gone, as I am quite sure he will be. We are parties that will be around a long time after Mr Moore and Ms Szuty have gone. As we all know, Independents and small parties very rarely last in Australian politics. The reason is that, as parties, we have people behind us. We have party meetings once a month - - -

Mr De Domenico: Sometimes, unfortunately so, Mrs Grassby.

MRS GRASSBY: That is quite so, unfortunately; but in a democratic society this is the way I would rather it be. I would rather be responsible to people in a party who have put together policies. Whether I agree with the Liberal Party's policies or not is not the point; there are many people who support them and their policies, just as there are many people who support the Labor Party and their policies.

Mr Humphries: You are not filibustering, are you?

MRS GRASSBY: How dare you say that about me, Gary! I have never filibustered in my life. I get on and do what I believe in. That is why I am here, Mr Humphries, and not out there.

Mr De Domenico: And you avoid cliches like the plague.

MRS GRASSBY: Of course I do. I am absolutely horrified, Mr Humphries, that you would make a statement like that about me in this house, when I have been so kind to you. I even tried to find you a wife. I know that I was not successful in that, Mr Humphries; but I did try, believe you me. You are one of life's treasures I did not want to go by. I wanted some lovely girl to be able to have you. Anyway, you looked after that yourself and I am glad that you did, Mr Humphries. I would like you to join the ranks of us married people.

To get back to what we are talking about, Mr Stevenson wants to stop this house working the way it should work, by running around and getting what he calls Dennis polls from five or six people and believing that he knows what the people out there really want. He has no idea what the people want and our two parties do know because we have a lot of people backing us up. I feel that Dennis is trying to hold up the work of this house. We have had Bills go through that have been out in the public arena for months. The Adoption Bill has been in the public arena for months and it should have gone through.

Mr Moore: Madam Speaker, on a point of order: Mrs Grassby's reflection on a vote of the Assembly is entirely inappropriate. I must say that I am very surprised at her.

MRS GRASSBY: I have touched a raw nerve. I am sorry about that, Madam Speaker. I withdraw that. I would not like to upset you in any way, it being so close to Christmas. Because you are losing your voice, it would not be very nice to do that to you.

There have been many Bills in this house that have been out in the public arena for months. They have been viewed by both parties and by the people they concern, yet they have been held up time and time again. Now Mr Stevenson wants to hold them up even longer. My argument is: What are we doing here then? Why are we here? I think Mr Stevenson has thought of a great idea to get rid of this house. This is his way to get rid of this house. Do not let anything happen in here, and in the end there will be no reason for us to be here. It is a very cute point of Mr Stevenson's. He obviously lay in bed last night - wherever his bed was last night, whether it was here or somewhere else - and thought this out very carefully. "How do I hold up things so that nothing ever goes through this house and we never get any work done, and then maybe the people will get rid of us?". I am sorry to say, Mr Stevenson, that it will not happen. After the next election you will not be here, so there will not be any worry. There will be the Liberal and Labor parties here.

Mr Stevenson: Are you praying?

MRS GRASSBY: I do not have to pray; I know.

Mr Stevenson: You have your hands close together. I thought it might be a prayer.

MRS GRASSBY: It is better than having my hands in my pockets, Mr Stevenson, as you do when you stand up and talk about X-rated movies. Mr Stevenson, you do not have any chance of getting rid of this house, believe you me. You are a one-man band, and after the next election you will not even be here, not even to play the drums or the tuba or anything else. You will be gone. The people of Canberra will not have to put up with silly nonsense, like the motion on the business paper today. It is absolutely stupid nonsense.

Mr Stevenson: That is what you said last time.

MRS GRASSBY: No, I did not say that. I knew that you would be back. There were enough nutty people out there last time, under the old system, to get you back. With the new system there will be no way of you getting back, Mr Stevenson. You should have stuck to single-member electorates. You might have been able to find enough mad people in a certain suburb to support you.

Ms Follett: Which one?

MRS GRASSBY: Which one? You are right, Rosemary. It would be hard to find one; but I am sure that there are a few, and he might be able to get them all together in one suburb so that he can represent them. I do not think that is going to happen, Mr Stevenson. It is a very sad day when this house is called on to discuss silly nonsense like this, stopping business that is important going through the house. I am very pleased that the Liberals will be supporting us on this and will not be voting for Mr Stevenson's motion. They have some commonsense; they know that there are enough people out there supporting them, people who look at the Bills that come into this house and give their views on them, instead of taking silly Dennis polls. I hope that Gary does not start running Gary polls. I do not think I could stand it.

MR STEVENSON (11.59), in reply: Madam Speaker, I believe that a reading of this debate will absolutely prove why we need to set the time in stone. I would like to thank the second speaker in the affirmative, the Attorney-General, Terry Connolly, for presenting my case so well. He was followed by the shadow Attorney-General, Gary Humphries, who made some more cogent points. Mr Connolly said that the Liberal Party had on a number of occasions rammed Bills through, or words to that effect. He made the point well. I am sure that we all agree. Is that not a reason why the nine in charge of this Assembly should not be able to do it? Of course, he omitted to mention the times when the Labor Party has done exactly the same thing, but that is understandable. He did say that if he had nine people in this Assembly he would do it.

Mr Connolly also talked about draft legislation being out in the public arena, as did Mr Wood. Let me make the point, and make it strongly, that the important time is not when Bills are talked about or ideas are tossed around; it is when the black-and-white law is placed before this Assembly. That is when people can read it and find out what is really going on. They are not always told beforehand.

Mr Connolly said that this chamber has total sovereignty. I note that he did not comment much about the expressed majority will of the people in this community. Other members, particularly those of the Labor Party, spoke about the people who are members of the Labor Party. Let us look at the truth. Less than 2 per cent of the Australian population are members of political parties. Any suggestion that the parties therefore represent the people is, of course, a nonsense.

Mr Connolly talked about urgent legislation. The matter is simple. Legislation is urgent or it is not urgent. If it is not urgent, it does not have to be pushed through. If it is urgent, it can be. He spoke well to the motion. He said that I would force the Labor Party or perhaps the Assembly to make a farce of a declaration of urgency. I would not force the issue. I would do everything in my power to encourage a genuine declaration of urgency. Those that are not genuine should not be approved.

Mr Kaine reiterated the suggestion that I would place a straitjacket on the Assembly. In respect of some of the Bills that members of this Assembly try to ram through without community communication, indeed I would. Mr Kaine suggested that matters could go before a committee, but should not be in the public gaze where things may become contentious. I would put them in the public gaze, contentious or otherwise. Let the people hear; let the people see.

The Attorney-General referred to some of the matters the Liberals rushed through. Let us look at some of the Labor ones. The Labor Party would have passed the amendment to the Animal Welfare Bill in about seven days. Other members combined to ensure that that did not happen. It was just as well that Labor did not have a ninth member in this house. Otherwise, people would not have had that opportunity. They also refused to talk to representatives of the circus industry. At one time during consultation on the Animal Welfare Bill I know that John MacDonnell visited your office on the spur of the moment, and you had a brief consultation. After that, there was no consultation - - -

Mr Lamont: Not true.

MR STEVENSON: All right; give me the evidence. Mr Kaine said that I am trying to impose too rigid a regime. Unfortunately, after four years, I have not the slightest doubt that we need some rigid regime to prevent members from ramming Bills through, before the public can find out about them. Mr Humphries then spoke so well. He presented the case of a noted criminal lawyer in the ACT who needed a few days to give a comment on a Bill before the house. Where has he been? He has obviously never been around the Assembly. He knows nothing about how this place operates. If he did, he would know that, if he is asked for an opinion, he needs to drop everything and hand it over straightaway; otherwise, it will be dead in the water, because the Bill will probably have been passed.

Mr Moore said that it is so important for me to have this motion passed because I conduct polls. No, that is not the reason, Mr Moore. The reason is that people should have an opportunity to find out about the legislation. Mr Moore said that members should use judgment. I suggest that this so-called judgment is usually simply an opinion and carries no more weight than the opinion of any of the other 293,000 people in this community. They should have a say.

Mr Moore also misrepresented the situation when he said that I poll to get answers that I want. The truth is that we contacted the Australian Bureau of Statistics. We set out the details of the survey techniques that we use in applying demographic principles to my role as an MLA. The detailed written response and advice included a table that the ABS formulated especially for the circumstances of the constituent surveys we have been doing for some years. That table is designed to calculate the maximum possible error rate in a given survey result, depending on the sampling size and percentile responses to a particular question in the survey. That precise method is always applied to identify the specific variations which may apply to my office's surveys. When other members start surveying their constituents and acting on the instructions so obtained, then their opinion on survey techniques will carry more weight.

Mr Moore also said that he gives copies of Bills to key players. I am sure that we try to give copies of Bills to key players; but I suggest that members may not know all the key players, and they may not want to know some of the key players. Mr Humphries agreed with the diagnosis but disagreed with the treatment. I say that if we wait too long the patient will be dead.

Mr Lamont talked about four facets of legislation. He said that the Government has a proactive policy arrived at by consultation. What about the age of consent being reduced to 13 years in Labor Party policy? Does that come within proactive policy? He then talked about reactive legislation to rectify particular anomalies and omissions. That is one of the very reasons I have moved this motion. Many of these anomalies, omissions and unintended consequences occur because Bills are rammed through this house, and just about every member has spoken on such things in this Assembly. Mr Lamont then talked about revenue - that is, tax - increases. Boy, we should slow those down so that people have an opportunity to comment.

Ms Szuty talked about her policy before the election that Bills lie on the table for some considerable time. It is a pity she then said that she will not vote to make sure that that happens. She talked about there being no perceived purpose. Let me suggest that politicians in this Assembly may not perceive the purpose; but, if you talk to enough people, you may find different perceptions.

Mr Wood said that I think self-government should be abolished, and he then misrepresented that by saying that I did not support democracy. Let us look at two points. Firstly, any suggestion that this Assembly is self-government for Canberra is an absurdity. The second thing is that the majority of people, not just I, want it abolished. He talked about the openness of this system. This is the very Minister who refused to see constituents on the matter of abortion and who, I have been told, in the past has also refused point-blank to see constituents. Madam Speaker, Mr Connolly referred to 90 years before. I think the 90 years should be kept for politicians who refuse to grant democracy.

MADAM SPEAKER: Mr Stevenson, your time has expired.

MR MOORE: Under standing order 47, Madam Speaker, I would like to clarify a misunderstanding by Mr Stevenson.

MADAM SPEAKER: Leave is granted.

MR MOORE: Thank you, Madam Speaker. Mr Stevenson suggested that my attack on his polling system had to do with his method. Whilst I might be prepared to attack it on that basis, that was not the question I raised. I would like to clarify what I said. The point that I made was that he can ask whatever questions he likes, and to the extent that he disagrees with the referendum he can ask the questions he likes to get the answers he wants. That is the position I put, rather than what was described by Mr Stevenson.

MR LAMONT: I also rise pursuant to standing order 47, Madam Speaker.

MADAM SPEAKER: Please proceed, Mr Lamont.

MR LAMONT: Madam Speaker, Mr Stevenson implied that I referred to three facets of legislation. In fact, there were four. I did not talk about just taxation. I went on and talked about expenditure. Mr Stevenson's selective quoting does not do justice to the issue that I raised in what I regarded as a quite bipartisan way.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning): Madam Speaker, under standing order 47, I would like to correct a statement. I did in fact see a great number of people on the abortion issue, and on a whole range of issues my doors are very wide open.

Question put:

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

The Assembly voted -

AYES, 1	*NOES, 14*
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 negative.

TEMPORARY ORDER - ANSWERS TO QUESTIONS ON NOTICE

MR HUMPHRIES (12.14): I move:

That the following temporary order operate for the remainder of this Assembly:

Answers to questions on notice

118A. If a Minister does not answer a question on notice (including a question taken on notice during questions without notice) asked by a Member, within 30 days of the asking of that question, and does not, within that period, provide to the Member who asked the question an explanation satisfactory to that Member of why an answer has not yet been provided, then:

(a) at the conclusion of questions without notice on any day after that period, the Member may ask the relevant Minister for such an explanation; and

(b) the Member may, at the conclusion of the explanation, move without notice "That the Assembly take note of the explanation"; or

(c) in the event that the Minister does not provide an explanation, the Member may, without notice, move a motion with regard to the Minister's failure to provide either an answer or an explanation.

Madam Speaker, because of the enormous time that the previous very close motion consumed out of private members business, it is unfortunately not possible to resolve this matter today; but I am happy to bring the matter up for debate and see whether we can put the issue squarely on the table so that the Government has a good two months at least to start to lift its game on this important question of the answering of questions on the notice paper.

Madam Speaker, this is an important and significant motion which I believe will improve not only the state of our standing orders but also the quality of our Government. I think we are all very much in favour of that. I do not know whether the Government is, but we are all in favour of improving the quality of the Government. Short of actually changing it, I think the best thing we can do is patch up the holes and use a cattle prod now and again to get a few results.

Mr Kaine: The best they could get was six out of 10.

MR HUMPHRIES: The "six out of 10" Government could do a little bit of improving, and that is why we are going to help it get a better score next year than it got this year. Madam Speaker, we have some concerns about the way in which the Government has delayed the answering of questions which appear on the notice paper. We have considerable concern about the length of time it has taken to answer some questions.

Madam Speaker, this is a self-explanatory motion. I think we can see quite clearly how important it is for questions to be answered within 30 days. This procedure was introduced in the Senate in 1988. It has worked very well there. I understand that there has been no case in which it has actually been applied in the Senate, because every question in the Senate has been answered within 30 days. Therefore, Madam Speaker, I think that we have here a very valuable amendment to our standing orders. I support the motion and recommend that members of the Assembly support it.

MS FOLLETT (Chief Minister and Treasurer) (12.15): Madam Speaker, the Government will be opposing Mr Humphries's motion, and we will be doing so for a variety of reasons. The first reason that I would like to put before the Assembly is that Mr Humphries's proposed action is not necessary. I agree with Mr Humphries that any action that we can take to improve not just the Government's performance but also the Opposition's performance in the chamber should be pursued.

Nevertheless, if you have a simple look at the notice paper, Madam Speaker, you will see that, of the 481 questions that have been asked prior to this week, only 77 remain unanswered. So, the vast majority of questions have been answered. They have been answered in a timely fashion. In fact, a very large number of those questions were, in fact, answered within 30 days, and I think that is a pretty good record. I point out that our first reason for opposing Mr Humphries's motion is simply that the Government does not need this big stick approach to ensure that members get timely responses to their questions. I agree, Madam Speaker, that members are entitled to timely responses to their questions - there is no doubt whatsoever about that - and they are getting them.

Madam Speaker, we will be opposing this motion also because, to an extent, it poses a threat to the Government's ability to govern properly. It does that in a number of ways. It would enable private members to tie up an incredible amount of the Government's resources and could be used mischievously. I have never said that that has happened; but the potential would be there for the opposition and independent members, through questions on notice, to virtually stifle the Government's ability to get on with its business because of the amount of resources that would be tied up. To an extent, it would make the Government a hostage to fortune. We would have to rely on the good will of the Opposition and on their good sense in disciplining themselves as to how many questions they asked and of what sort.

Quite clearly, Madam Speaker, this kind of motion is not acceptable to the Government. Further - and I am sure that members would acknowledge this privately, if not publicly - many questions on the notice paper are not there simply in order to elicit information. We are political animals in this chamber, and in fact the question on notice has been, and is, used as a political weapon in the Opposition's armoury. There is no doubt in my mind about that. I have been in government and opposition. I am quite sure that members would privately concede that I am correct in that. Madam Speaker, if you have a look through the notice paper, you will see that that is sometimes the case - not in every case. I think that members would acknowledge that point if they were speaking freely on the matter.

A further problem that I have with Mr Humphries's motion is that it proposes a most inflexible set of rules for the Government. Just as Mr Stevenson's motion sought to impose a most inflexible set of rules which members did not find acceptable, so does Mr Humphries's motion. It is a further concern of mine, Madam Speaker, that in imposing a 30-day deadline Mr Humphries may not only cause the Government to experience difficulty in proceeding with its business but also - inadvertently, I am sure - affect the kind of answer that members get to their questions. If a Minister or an agency is rushing to meet a 30-day deadline, there is a possibility that you will not get as full an answer as you would otherwise, because of the sanctions that Mr Humphries's motion encompasses. Madam Speaker, members ought to consider the sanction that this Assembly would then have open to it to use against a Minister who had not answered within these deadlines which Mr Humphries seeks to set.

I think that the second part of Mr Humphries's motion could well involve this Assembly in extremely lengthy debates in which the Government was merely seeking to defend itself from criticism on deadlines sought to be set by Mr Humphries. It implies to me that there would be a great many more debates which really had very little to do with the good government of the Territory and very little to do with the substance of an issue that a member had questioned but which might have a great deal to do simply with political point scoring as to artificial deadlines. I find that unacceptable.

The motion would mean that any question outstanding after 30 days would provide the Opposition with an automatic right to move motions critical of Ministers. I assume, Madam Speaker, that those motions would then have precedence over all other business after question time. Members have open to them at the moment the ability to move a censure motion. Such a motion usually has precedence, as we all know. I cannot see why we need a yet further weapon for the Opposition to criticise Ministers - and to criticise Ministers on a timetable that has been set up by the Opposition itself. Madam Speaker, it is not in the interests of good government here in the ACT for anybody in this chamber to endorse a motion which has the potential - and I stress that it is a potential - to grind the business of government to a halt. I repeat that the motion may tie up both the Ministry and the agencies, the public service, in meeting a very inflexible regime. The reasons for this inflexibility are unclear to me, because I think members have good service in relation to the questions that they ask.

Finally, Madam Speaker, I reiterate a point that I have made many times. If members have a complex question to ask or a complex issue that they want to debate - looking through the notice paper, I can see such questions in relation to housing and some in relation to health - it is always open to them to seek a briefing or to seek discussion with the Minister. Madam Speaker, all Ministers are amenable to that approach, and that approach may well clarify in members' minds the kinds of questions they ought to be asking or the kinds of questions that will give them the best value for that effort on their part.

The Government will be opposing this motion. We do not believe that it is necessary and, in particular, I believe that an examination of the facts of questions on notice and the Government's response to those questions reveals that it is not necessary. I am quite prepared to make a better effort. We are always looking to improve our performance. If there are questions which have given members concern because of delay in Ministers replying to them, they can draw them to the attention of Ministers. I think it has been the case that where such a delay has

been drawn to my attention members have got a response very smartly indeed. I do not want answers delayed either, but I think that a 30-day time period is totally unrealistic. I find it very strange that the motion is being moved today when we are about to have a 60-day period of non-sitting. I cannot imagine that that 30-day proposal has been very well thought through or that there is any particular reason for choosing that period.

Madam Speaker, as I say, I oppose the motion. It would have an enormous capacity to virtually stifle the Government's ability to get on with its business. It is highly likely that it would involve this Assembly in endless debates of purely political point scoring on the question of deadlines rather than debates on matters of substance. Finally, Madam Speaker, as I say, any members who want an issue clarified or who feel that their question has not been dealt with in a timely enough fashion can draw that to a Minister's attention. They will certainly - I am sure that I speak for all Ministers - get a response.

MR KAINE (Leader of the Opposition) (12.25): Madam Speaker, I think that the Chief Minister's response to this motion is peculiar, to say the least. Her argument is that, out of approximately 480 questions, there are only 77 unanswered; and she said that most of those have been answered in 30 days. Then she said that 30 days is an unrealistic and unreasonable target. She argued against her own case. I do not accept that 30 days is an unreasonable time. The Chief Minister did not convince me. The important point here is not the fact that 90 per cent of the questions have been answered within 30 days. The point is that 77 remain unanswered, and some of those go back to April. It is totally unreasonable, Madam Speaker, for any member of the Assembly to have to wait for eight months for an answer to a question seeking information.

I take issue with the Chief Minister's comment about members using questions without notice as a political weapon. The Labor Party might. I use the questions on notice to get information that was not forthcoming in the Estimates Committee and to get information that does not come out of questions without notice because some Ministers waffle and will not answer the questions. If I want information I have to put questions on notice. That is why I ask them. The Chief Minister may care to admit that she uses this forum as a political weapon. I do not make any such concession, and I reject totally the suggestion that I do.

Madam Speaker, this is not an unreasonable proposition. It is not going to bring the Government to a grinding halt. It has not brought the Senate to a grinding halt; nor will it do so here since, by the Chief Minister's own admission, 90 per cent of the questions have been answered within the 30-day period that Mr Humphries's motion calls for. It is a reasonable request, and the Chief Minister would do well to agree with the rest of the Assembly that it is a reasonable time and let us get on with it.

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

> That the question be now put.

MADAM SPEAKER: A closure motion must be put without amendment or debate, unless it shall appear to the Speaker that such a motion is an abuse of the rules of the Assembly or an infringement of members' rights. So far we have had only three people speak to the original motion. The closure motion is therefore an abuse of members' rights. I will not put the question.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.28): Madam Speaker, I was doing some quick research. Mr Kaine was waxing lyrical about there being a vast number of unanswered questions on the notice paper. Some 27 of those 77 were asked in the last four sitting days. As a result of the attempt to gag this debate, I was forced away from doing my research; but I am very confident that question No. 400 would take us to the last two sitting weeks and that we would find that well over half of these so-called unanswered questions go back only to the last two sitting weeks.

A few have taken longer, as the Chief Minister indicated. A very small number take longer. The simple fact is that many of the questions that are asked are very complex. Some questions that have been asked of me require information which is simply not kept.

Mr Humphries: Sometimes they do not.

MR CONNOLLY: Those that do not get a very quick answer. I think the classic was the flat tyre answer, Mr Humphries. You asked me a question about why a particular bus had been stationed at a particular point on a particular day, and you got a two-word answer - flat tyre. Where there is a simple answer to a question we will give it to you in fairly swift time. Some of the questions that Mr Cornwell has been asking about processes and procedures in public housing raise issues on which information is not kept. The statistical databases that we keep for our reporting processes do not lend themselves to answering Mr Cornwell's questions.

MADAM SPEAKER: Mr Connolly, it is 12.30. The debate is interrupted in accordance with standing order 77 as amended by temporary order.

Sitting suspended from 12.30 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Quarterly Financial Statement

MR KAINE: I would like to direct a question to the Chief Minister and Treasurer. Will the Chief Minister tell me when she intends to table a quarterly financial report in compliance with the Audit Act for the period ended 30 September 1992? Why is it that three months after the end of the reporting period that report still has not been published?

MS FOLLETT: Madam Speaker, I will take Mr Kaine's question on notice and will ensure that that information is made public at the first available opportunity. I cannot give him a precise date at the moment, but I will check that out.

MR KAINE: I have a supplementary question. Does the Chief Minister agree now that 30 days is plenty long enough to answer and to provide information?

MS FOLLETT: Madam Speaker, speaking from memory, there is not a strict time limit on the period in which that information is required. Obviously, it is at the end of the quarter. As I say, I will advise Mr Kaine as soon as I can.

Medically Acquired HIV/AIDS

MR LAMONT: My question is directed to the Deputy Chief Minister in his capacity as Minister for Health. Will the Government be providing compensation to people with medically acquired AIDS?

Mrs Carnell: It was in the newspaper this morning. Go and read it.

MR BERRY: The Liberals opposite do not like to hear good news. This Government is full of good news and they hate it. All they want to do is cause trouble and disquiet, instead of accepting, with good grace, that mostly good things are happening as a result of the Follett-led Labor Government.

This is an issue on which there has been some political contention for some time. I think that most members of this Assembly at times have expressed a view about the issue. The Government has been particularly keen to get the matter resolved, but resolved in a way that is satisfactory to all of the parties. We have decided to request that all claimants with medically acquired HIV/AIDS register their claims with the Attorney-General's Department, and this includes claimants from deceased estates and those suffering from associated secondary infection. The Government's decision clearly demonstrates our willingness to recognise the plight of people caught up in this situation, and a lot of work has gone into coming up with the formula that we have decided upon.

Claimants will be able to negotiate a settlement with the ACT Government in conjunction with the Commonwealth on an individual basis, and any settlement will be based on the individual legal merit of each claim. Discussion of any settlement will also ensure that successful claimants maintain their Medicare benefits - an important feature because of the assistance that can be provided through Medicare. We do not want to see them without their Medicare benefits and in circumstances where they may not have private insurance and might have to call on private services which they cannot afford. We would like to ensure that they are not adversely affected by taxation liabilities, as well. Medically acquired HIV/AIDS is contracted through contaminated blood products, organ transplants and so on. About 500 such cases have been reported across Australia. The estimate is low in the ACT, but there is some suggestion that it might be around 10 or 11. The absolute number is not known, and we will not know until people come forward to the Attorney-General's Department.

The Government believes that people with medically acquired HIV/AIDS should be a priority group for compensation because they were treated in public hospitals and/or used blood products which were believed to be uncontaminated. These people had little or no choice but to utilise the medical service and blood products because the treatment was required to preserve life. Madam Speaker, as I have said, this has been a while coming, but I think that speed is not something that you take on as opposed to ensuring that you have a quality decision. I think that this is a quality decision which will serve the community well.

Public Hospitals - Activity Levels

MR HUMPHRIES: My question is also to the Minister for Health. On 17 November the Minister told the Assembly what he had already said to the Estimates Committee - that activity levels in the public hospital system this year were expected to be "about the same as last year but we hope to do better". Does "better" mean greater activity or less activity?

MR BERRY: It means better. It means more people.

Mr Humphries: But what does it mean? More activity or less activity?

MR BERRY: It means more people.

Mr Humphries: More activity.

MR BERRY: It means better. What does "better" mean? Last year, I said, we had budgeted for a given level of activity and we did better. We expect about the same level this year but we hope to do better. I have said that repeatedly. We hope to see more people.

Mr Humphries: What does "better" mean?

MR BERRY: We hope to see more people.

Mrs Carnell: For the same money.

MR BERRY: Have a look at the budget. We hope to do better for the money that is in the budget.

NRMA-ACT Road Safety Trust

MRS GRASSBY: Madam Speaker, my question is to the Minister for Urban Services. Can the Minister inform the Assembly of any project that has been funded by the NRMA-ACT Road Safety Trust?

MR CONNOLLY: I am delighted to let Mrs Grassby know that the first payments coming out of the NRMA-ACT Road Safety Trust were made this morning.

Mr De Domenico: How coincidental!

MR CONNOLLY: Mrs Grassby has her finger on the pulse. She knows that things are happening and she realised that something might be happening today.

Madam Speaker, members would recall that last year this Government successfully negotiated with the NRMA some $20m of excess profits that had been earned as a result of a setting of third-party insurance premiums over the decade of the 1980s, in effect. They were somewhat too high. The result of that unprecedented deal was that that $20m, rather than remaining in the company's ownership - it was a lawful, legitimate profit - was to be returned to the ACT community. I stress "the community", not the Government. This money never

went into Consolidated Revenue. There is $10m in a fund which is operating to subsidise third-party premiums and we then said that $10m was to be used for a road safety trust fund for worthwhile projects. That fund was established earlier this year when this Assembly passed legislation to give the fund a lawful base.

This morning the first payments, of some $70,000-odd, were made to the Child Accident Prevention Foundation in the ACT. That money will allow them to reduce the hire cost of the child safety capsules from the present $40 for six months to $20. That is a significant reduction in cost to families with infants, which will significantly benefit this community. There is also an amount of money available to the foundation to run ongoing education programs in the community about the need for child restraints. That is another worthwhile project.

The most pleasing thing, Madam Speaker, is that those payments represent but the first instalment of a lot of good works that will be coming from that trust. The trust is administering some $10m. That money was paid over at the beginning of this year. One does not need to be a mathematical genius to realise that the $70,000 that was paid out this morning is but a fraction of the interest that has already been accumulated on that money, without starting to eat into the capital. I am confident that we can look forward to a lot of projects which would have been battling to secure government funding, given the difficult situation that the ACT will find itself in for some years, but which now will be able to benefit from this substantial sum of money that was secured to the community through this Government's negotiations.

Medicare Agreement

MR DE DOMENICO: Madam Speaker, my question without notice is to the Deputy Chief Minister in his capacity as Minister for Health. As the Minister is aware, or should be aware, pool B of the bonus pool under the revised Medicare agreement will reward improvements in public provision of occupied bed days by public patients. How does the Minister plan to take advantage of this money, taking into account that ACT Health has never favoured privately insured patients and that the ACT has the lowest number of private hospital beds per 1,000 in Australia?

MR BERRY: I think I should really say that I answered this question yesterday.

Mrs Carnell: No, you did not answer it yesterday.

Mr Humphries: You did not.

MR BERRY: I think I did, if you had been listening. What I have said to these deaf people opposite is that a Medicare agreement is currently being negotiated - - -

Mr De Domenico: You could not have answered it yesterday because I did not ask it yesterday.

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

MR BERRY: If you know so much about it, why do you ask the question?

Mrs Carnell: I do not know this bit.

MR BERRY: If you know so much about it, do not ask the question.

Mr De Domenico: But you are in control of your portfolio.

MR BERRY: I am very definitely in control of the portfolio. I told you yesterday that the Medicare agreement is being negotiated currently, and that a full statement on the outcome of the negotiations will be made when that is finalised.

MR DE DOMENICO: I have a supplementary question, Madam Speaker. Does the Minister not concede that the fact that the ACT has the lowest number of private hospital beds per 1,000 places us at a disadvantage in comparison to other jurisdictions?

MR BERRY: No - and that is not related to the first question, so it is probably out of order. In any event, I have said that the negotiations will settle where the ACT stands amongst the rest of the country, and Mr De Domenico should be patient. As I said, all of the outcomes will be made public when the negotiations are complete. I am not going to get involved in petty point taking at a critical point of the negotiations with the Commonwealth.

ACTION - Workplace Reform

MR WESTENDE: My question is directed to the Minister for Urban Services. Did the Minister see the article on page 17 of the *Canberra Times* of Saturday, 12 December, concerning Deane's Buslines? Does the Minister agree that it appears to be possible to run buses with complete cooperation of all staff in a flexible manner, including part-timers and job sharing? Would the Minister further agree that, if some of those methods were adopted by ACTION, we would have a much more flexible, efficient and economic bus system in the ACT?

MR CONNOLLY: Madam Speaker, I thank Mr Westende for his question. Deane's is a very successful private sector bus company operating in Queanbeyan which shows a lot of flexibility and good judgment. I think some of the best judgment they show is that they use the ACTION workshops for major work on their buses rather than contracting out, which seems to be Liberal Party ideology. In the ACT our public bus system is actually contracting in because a private bus line in the neighbouring city is getting its major work done in our workshops.

There is no doubt that ACTION is an area which we have targeted for improvement, and improvement is starting to occur. I, fortunately, just happen to have with me a chart, which I had prepared in large form for the Liberals, which shows the ACTION subsidy and deficit. It is a bit wavy, not unlike the Brindabellas; but it does show a number of key points. Madam Speaker, the first line, which I mark here, shows the line going down. It shows a steady reduction in the ACTION operating deficit during the period of the first Follett administration. That takes it up to the 1989-90 budget. It then takes a dramatic upswing during the period of the Liberal stewardship when the real cost of ACTION was steadily increasing. It then starts to steadily decline over the past two Labor budgets.

This Government is addressing issues of flexibility and improvement with ACTION. I indicated only the other day, in response to a question without notice from one of my Labor colleagues, that we are, for example, doing a study within ACTION on national best practice. Mr Westende would be aware that a current management strategy in the private sector in Australia is to look at national and international best practice, acknowledging that we are now in a competitive environment. That is the sort of thing that we are doing within ACTION - looking at best practice in workplace reform to ensure that we can take the ACTION network into the future and continue to reduce that deficit. This Government has set itself a very public target of achieving some $10m reduction in the real cost of ACTION to the community over the next three years. They will be the three years of this administration. We achieved some $2m in the last budget. In fact, later on today I will be tabling something which clarifies that. I think it is $1.93m, and our target was $2m, so we are just about there. I am confident that we will continue to do that over coming years.

Feral Cats

MS ELLIS: Madam Speaker, my question is directed to the Minister for the Environment, Land and Planning. I refer to a recent television program about the problem of feral cats, and also to a feral animal information kit that I recently received from the place on the hill, which, amongst other things, mentions feral cats. I ask the Minister: Does the Government acknowledge that this is a problem in the ACT, and, if so, what is being done about it?

MR WOOD: Madam Speaker, I think it is probably fair to say that there is a problem with feral cats in the ACT, as elsewhere, but the extent of that problem is not easily assessed. I guess that it is the nature of cats that they can be killers. That does not have to be the case if they are well cared for by their owners, but unfortunately that does not occur in every case. Studies in other States indicate that lizards and birds do form a part of the diet of feral animals. There is the likelihood of a problem in the ACT, but we do not know. It is a complex question. The question of the control of cats is a difficult one. It has been presented to me as Minister from time to time.

Before we come to grips in any detail with cat control, I think we ought to be well aware of the extent of the problem, if any. For that reason my department is funding a study of the feeding habits of cats living in the fringe area of the city, in the hills and forests adjacent to the city. We have provided $17,000 in this financial year for that study. That will give us a starting point in considering what action may be necessary. For the first time in the ACT it will give us some definite data. It may be appropriate that one of the committees you work on - I think Mr Moore's environment committee - take on this matter if they see it as one of some importance.

RSL Retirement Village

MS SZUTY: My question is also to the Minister for the Environment, Land and Planning, Mr Wood. Can the Minister inform the Assembly as to the progress of current negotiations with the Returned and Services League of Australia, ACT Branch, regarding construction of a retired persons housing development on the shores of Lake Ginninderra? Have any alternative sites been discussed with the developer?

MR WOOD: Madam Speaker, I do not have up-to-date information on that. It must be some months ago now that the department indicated to the RSL that it would consider an application for an area away from the foreshores of the lake and adjacent to the road - I do not know its name offhand - running a little distance from the lake. It is some 200 to 250 metres from the lake. The department indicated that we would listen to a proposal from the RSL and I understand that they are engaged in that process now.

We have made certain requirements of the RSL. I saw one set of sketch plans that I did not think were particularly satisfactory. That is only a minor part of the whole deal because they have to find the funding for it; they have to determine in what sense it is an aged persons village and what sorts of provisions will go there. Is it simply a transference of housing from RSL members and the like? There is a whole range of details. It is being dealt with appropriately at this stage within the department. However, since you asked, I will make an inquiry and see whether it has progressed any distance.

School Dental Service

MRS CARNELL: My question is to the Minister for Health, Mr Berry, and it is about the School Dental Service. During the Estimates Committee hearing you indicated to the Estimates Committee that you did not believe that the change in the school dental arrangements would lead to a decrease in usage. You indicated that you did not believe that it would cause a problem with targeting. The September 1992 quarter activity figures that have been produced show that there were 11,290 visits for school dental, but in 1991 that figure was 14,174, which indicates round about a 3,000 difference. Will the Minister now concede that the new policy of cluster clinics is resulting in a decrease in usage of the School Dental Service? How is the Minister ensuring that children most in need of the service are receiving it, and that appropriate targeting is happening?

MR BERRY: If one takes the figures - - -

Mr Humphries: They are your figures.

MR BERRY: Well, you say that they are. You never trust the Liberals. If one takes the figures as being accurate, in the way that was put by Mrs Carnell - I do not have the report in front of me - there are fewer people using the service. The cluster clinic arrangement was set up because, as is well known, we have to do more with less, right across the budget. It was an efficiency measure which was decided upon. It was also set up to ensure that those people who needed the services got it. I believe that it was an opportunity to change the way we deliver dental services to a manner which is more efficient. It is not something new. It is certainly different in the ACT. I am sure that everybody who experienced the School Dental Service in the old days, some years ago, would prefer that the old system come back; but I am afraid that those days are gone. We have to do things more efficiently now. Sometimes the service arrangements are not exactly what people would want, given their experience of the old days. I am afraid that we have to do things more efficiently, and that is the way it is.

MRS CARNELL: I have a supplementary question, Madam Speaker. I would like to ask the Minister whether he believes that more efficiency means less accessibility. I will quickly read the letter that parents are sent.
It says:

> Dear Parent/Guardian, re -

in this case, Claire Carnell -

> recall notice.
>
> The staff of the School Dental Clinic would like to remind you that your child is now due for dental examination. We invite you to telephone the clinic on the above number to make a suitable appointment time. Please note that no further reminder notices will be sent. Yours faithfully, ...

Again I ask the Minister: Taking into account that that is the only interface that the parents have with the system, how are you or the service appropriately targeting children who will not get any other dental service and ensuring that they are being accessed?

MR BERRY: This illustrates the flotsam and jetsam of Mrs Carnell's questions. You are demonstrating clearly to us that we have a recall system which works. You got a letter, and you got a phone number.

Mrs Carnell: But it says that no follow-up is being done on people who cannot afford it.

MR BERRY: Okay; then what are you suggesting? That we have two letters, or perhaps three? Essentially, it is a recall system that tells you that you are due. It is targeted - - -

Mrs Carnell: With no targeting. It is a bulk letter. It is not targeting people who cannot afford it.

MR BERRY: It is a system which is designed to make efficient use of resources. I think Mrs Carnell has just demonstrated that it is efficient, because it told her when to bring her child along and how to make an appointment.

Road Safety

MR LAMONT: My question is to Mr Connolly. I draw the Minister's attention to the road trauma normally experienced at this time of year, particularly over the Christmas and New Year break. Could the Minister inform the house whether any increased road safety initiatives will be in place in the ACT over this period?

MR CONNOLLY: I thank Mr Lamont for the question. As is normal around this time of the year, the police have something of a blitz on road safety because of the Christmas break which is rapidly approaching. As is normally the case, there will be an increased use of radar to detect speeding offences and RBT units, including units being out in the early hours of the morning.

One difference this year is that there also will be cooperation between the motor vehicle safety engineers and the police. There will be an increase in roadside random checking of the roadworthiness of motor vehicles. In particular, we are looking for bald tyres. Canberra people perhaps work on the assumption that you have to worry about that once a year when it is time to put the car over the pits. Given the peculiar weather that we have been having coming into the Christmas break, wet roads, bald tyres and fatigued drivers are a very hazardous combination. We are putting an emphasis this year not only on the traditional aspects of road safety, such as checking speed and checking alcohol limits in drivers, but also on the physical safety of the vehicles, their roadworthiness. There will be a particular emphasis on bald tyres, defective brakes, and headlights that may not be operating. We are not only having the normal initiative on speed and alcohol, but also checking safety.

Health Budget

MR MOORE: My question is to Mr Berry, the Minister for Health. I think it is time to up the ante a little. Will the Minister provide to the Assembly within 24 hours the same financial information in the same format as he provided to members last year? I refer to the financial information that was provided at meetings of the Board of Health for the months of July 1992, August 1992, September 1992, October 1992 and November 1992.

MR BERRY: Mr Moore is playing a little game here. It is good to see him out in the open at last. I have already told Mr Moore that I was prepared to provide financial figures. I have had one request for additional information, and that came from Mrs Carnell, in a deputation which included Mr Moore, a few minutes before the Assembly sitting on, I think, 18 November.

Mr Moore: Rather than have you mislead the house, I will remind you about a letter from Mrs Carnell and a letter from me.

Mrs Carnell: There were letters from both of us.

MR BERRY: Wait a minute. I have since had a letter from Mrs Carnell which I am in the process of replying to. It has incorrect information in it. I have had a letter from Mr Moore as well. Mrs Carnell claims that at that meeting with me I agreed to supply her with all of the figures that she had asked for, as well as the figures for last September. That is untrue.

Mrs Carnell: That is what I thought you said.

Mr Humphries: I raise a point of order. Madam Speaker, I think you have ruled that saying that a member has made an untrue statement is unparliamentary. I think that is what you have ruled.

MADAM SPEAKER: That is my standard ruling, yes, Mr Humphries. Thank you for bringing it to my attention.

MR BERRY: I withdraw.

MADAM SPEAKER: Thank you, Mr Berry.

MR BERRY: It cannot be rationalised against the facts. The fact is that I told both Mrs Carnell and Mr Moore that on the face of it I could see nothing wrong with their claim, and that I would take further advice on the matter. Mrs Carnell might recall that. Immediately after - I think it was in the question time that followed shortly thereafter - I made a statement along those lines in the Assembly, so my position is on the public record. I have since discussed the matter with Mr Moore and I have told him that I have taken advice, as I said I would, and that I will ask the board to provide the additional information that was requested in the next quarterly report which is due, for the quarter ended December. That is the position as it stands at the moment and a letter is on my desk ready for my signature now.

MR MOORE: I ask a supplementary question, Madam Speaker. Will the Minister provide the information for the September quarter? You are now being asked to provide the information for the September quarter.

MR BERRY: No; I have told you that I am prepared to ask the board to do it for the December quarter.

High Schools Development

MR CORNWELL: Madam Speaker, my question is to Mr Wood, the Minister for Education. Minister, you will recall that there was a discussion paper on high schools development put out earlier this year with a response date of no later than 20 September. I am wondering what has happened to the results of that. Will it be possible to obtain copies of those results when they are out, please?

MR WOOD: Madam Speaker, the answer is that a lot has happened to it. This is in an area of rapidly changing pressures and ideas. The paper was put out quite some time ago, with what seemed to be an ample timeframe; but, at the same time as the development of this high schools paper has been occurring, we have had the whole of the Carmichael agenda, and that has the potential to make very considerable changes. While there has been a lot of preparation of that paper, a lot of reference to schools - the paper at one stage was in a fairly advanced form of preparation - it has taken a little longer in order to accommodate all the pressures that are coming from these other very important issues that the Federal Government, in cooperation with the States, is running.

The agendas coming from Carmichael and Mayer, while both are reflected very heavily towards training, have the potential for considerable impacts on high schools, so we really do need to incorporate those recent trends into our response. Hence the delay. I cannot give you a precise time now as to when that paper will appear. I will table it in the house as soon as I can.

Mr Cornwell: Some time in the new year, obviously.

MR WOOD: Yes.

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

Quarterly Financial Statement

MS FOLLETT: Madam Speaker, at the start of question time Mr Kaine asked me a question about the quarterly financial statement for the September quarter of this current financial year, and when that might be released. At that time I indicated that I believed that there was no time limit for the presentation of the quarterly statement. I can now confirm that there is no time limit and that the Audit Act requires only that the statement be published in the *Gazette*, as indeed it will be. I have previously agreed to table these statements in the Assembly, Madam Speaker, as a courtesy to members. Should that *Gazette* appear when the Assembly is not sitting, I will ensure that members get a copy of it.

Madam Speaker, because the quarterly statement is a reflection of the actual expenditure against the budget for the current year, the first such statement in each financial year involves a reformatting to reflect changes in the presentation of that year's budget. As members are aware, there were substantial improvements in the presentation of this year's budget papers. Those improvements attracted some praise during the Estimates Committee hearings. The September quarter statement is being prepared accordingly. I am advised that it is well advanced. By way of background, Madam Speaker, could I say that the September quarter statement for 1990-91 - Mr Kaine's era - was gazetted by Mr Kaine as Treasurer on 2 January. I will be looking to make some improvement on that.

MINISTER FOR HEALTH
Motion of Want of Confidence

MR STEVENSON: I seek leave to give notice that, on the next day of sitting, I shall move a motion of no confidence in the Health Minister, Wayne Berry.

Leave granted.

MR STEVENSON: Madam Speaker, I give notice that, on the next day of sitting, I shall move the following motion:

(1) Whereas Wayne Bruce Berry is a Minister of the Crown who has flagrantly and persistently breached his statutory duty to uphold the rule of law by knowingly allowing illegal procedures to continue in his department for a considerable time, he has a serious case to answer.

(2) For this, he showed no contrition.

(3) As his behaviour demonstrates a wanton disregard and lack of respect for the law, or a total inability or, in any event, failure to comprehend the seriousness of his offence, the people of Canberra can have no confidence whatever in the proposition that this Member could ever be relied upon to uphold and obey the law.

(4) Accordingly, this Assembly expresses no confidence in Wayne Berry and requires his immediate resignation from his portfolio responsibilities and as a Member of this Assembly.

I table the motion.

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

> That so much of the standing and temporary orders be suspended as would prevent the motion foreshadowed by Mr Stevenson being called on forthwith.

The Assembly voted -

AYES, 16	*NOES, 1*
Mr Berry	Mr Stevenson
Mrs Carnell	
Mr Connolly	
Mr Cornwell	
Mr De Domenico	
Ms Ellis	
Ms Follett	
Mrs Grassby	
Mr Humphries	
Mr Kaine	
Mr Lamont	
Ms McRae	
Mr Moore	
Ms Szuty	
Mr Westende	
Mr Wood	

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

MR STEVENSON (3.09): Madam Speaker, I move:

(1) Whereas Wayne Bruce Berry is a Minister of the Crown who has flagrantly and persistently breached his statutory duty to uphold the rule of law by knowingly allowing illegal procedures to continue in his department for a considerable time, he has a serious case to answer.

(2) For this, he showed no contrition.

(3) As his behaviour demonstrates a wanton disregard and lack of respect for the law, or a total inability or, in any event, failure to comprehend the seriousness of his offence, the people of Canberra can have no confidence whatever in the proposition that this Member could ever be relied upon to uphold and obey the law.

(4) Accordingly, this Assembly expresses no confidence in Wayne Berry and requires his immediate resignation from his portfolio responsibilities and as a Member of this Assembly.

This motion of no confidence relates to the failure of Wayne Bruce Berry, as ACT Minister for Health, to rectify an illegal practice within his department, despite it being named as illegal and despite a number of written requests being sent to him personally asking that he have his department comply with the law. This failure to comply with the law has continued for 23 months and 20 days during the two periods that Wayne Berry has been Health Minister.

To prove beyond any doubt that Wayne Berry knowingly refused to fulfil his statutory duty, I will present copies of letters signed by him, verifying that he was aware of this illegal situation for not less than 11 months. Yet he did nothing to correct it. It is important at this point that I highlight the fact that this motion does not depend on the merits of the ACT law which required the reporting of HIV/AIDS as an infectious disease. Indeed, the motion does not even need to address this issue; nor does it. While I acknowledge that many people have strong opinions on the reporting of HIV/AIDS as an infectious disease - - -

Mr Berry: Madam Speaker, could I have those documents tabled immediately?

MADAM SPEAKER: No, it is usually done at the end.

MR STEVENSON: I am perfectly happy - - -

MADAM SPEAKER: Excuse me; I am conferring with the Clerk.

MR STEVENSON: I was going to let you have them today for tomorrow.

MADAM SPEAKER: Mr Stevenson, would you be so obliging as to table them now?

MR STEVENSON: Yes.

MADAM SPEAKER: You will need leave of the Assembly.

MR STEVENSON: I seek leave of the Assembly to table the documents.

Leave granted.

MADAM SPEAKER: Thank you, Mr Stevenson. Please proceed with your speech.

MR STEVENSON: Thank you. While I acknowledge that many people have strong opinions on the reporting of HIV/AIDS as an infectious disease, this motion does not debate that issue. This motion is simply about whether or not Wayne Bruce Berry upheld the law as he is required to do under his ministerial office. The issue of the merits of this particular law may be important, but today that is not the question.

The only questions we have to answer today are: First, did the law in the ACT require the reporting of the identity of HIV/AIDS patients to the Medical Officer of Health? Secondly, was Wayne Berry responsible, as Health Minister, for upholding this law? Thirdly, was Wayne Berry aware of this law, or should he have been? Fourthly, did Wayne Berry fail to uphold this law? If the evidence shows, and I state that it does, that the law required the reporting of the identity

of HIV/AIDS patients, that Wayne Bruce Berry had a responsibility to uphold the law, and that he knew the law, yet failed to uphold the law, his obligation to the people of Canberra and to this parliament is to resign not only his ministerial responsibilities but also his seat in the ACT Legislative Assembly. If he will not take this action voluntarily, it is our responsibility to ensure that he does.

There is, however, a fifth question that I will address today. It is one that compounds the seriousness of Wayne Berry's culpability. That question is: Did Wayne Berry mislead this house? I will present today evidence which shows that the Health Minister did mislead this house. This evidence, however, is not required to prove the validity of this motion. I will present the evidence in chronological order. The following chronology of acts and omissions will clearly show that this house can have no confidence in Wayne Berry, either as the Health Minister or as a member of this Assembly.

The facts are that since 30 September 1983 Regulation No. 10 under the Public Health (Infectious and Notifiable Diseases) Act clearly required all doctors to notify full personal details, including name and address, of patients diagnosed as having human immuno-deficiency virus, HIV, to the Medical Officer of Health. This measure was put in place as a means of protecting the public health by empowering that public official to take steps, authorised by the Act, to minimise the spread of the disease. But in order for the Medical Officer of Health to fulfil that obligation, he needed to know the details of patients who have the disease.

On 15 January 1985, at a meeting of the AIDS management group of the ACT Health Authority, the then Medical Officer of Health, Dr Sheena McLeod, addressed the issue of notifiability of AIDS and expressed concern that she was no longer receiving notification of positive test results from doctors and pathologists following ACT Health Authority communications and that this lack of monitoring could have serious implications. What I just said was a direct quote from a document from exhibit B, minutes of the meeting, which was part of the evidence considered by the Administrative Appeals Tribunal in AAT case No. C92/17. This case will be referred to in more detail later in my speech.

On 25 November 1985 Mr R.J. Cheshire of the ACT Health Department issued a circular stating that under the regulations only category A or full-blown AIDS was notifiable to the Medical Officer of Health. This document forms part of exhibit B of AAT file No. C92/17. On 23 December 1985 Mr J. O'Halloran, director of the legal branch of the ACT Health Department, sent a minute to the Health Department chairman, Mr Bissett, via O'Halloran's superiors, Messrs Foskett and Sexton. It read in part:

> I confirm my recent verbal advice to you that your press statement that only type "A" AIDS is notifiable in the ACT is not supported by the regulations.
>
> ... ...
>
> Sub-Regulation 3(3) provides "that for the purposes of these Regulations where the organism presumed to cause an infectious disease or a notifiable disease is found to be present in a person that person shall be deemed to be suffering from that disease.

> Regulation 4 provides that a medical practitioner who has reason to believe that a person professionally attended by him is, or may be, suffering from an infectious disease or a notifiable disease is found to be present in a person that person shall be deemed to be suffering from that disease.
>
> In my opinion this means that (despite the incidence of false positive results to the antibody test) a positive result means that an organism presumed to cause a notifiable disease has been found to be present in a person.
>
> Even if this is not so, a positive result to the antibody test would at least mean that a medical practitioner would conclude that a person may be suffering from a notifiable disease. There is then an obligation to notify the Medical Officer of Health.

As to the answers to questions 1 and 2, this provides the answer to our first question and proves that the law in the ACT did require the reporting of the identity of HIV/AIDS patients to the Medical Officer of Health. Thus we also acknowledge that Wayne Berry was responsible, as Health Minister, for upholding this law. This answers our second question. The relevant document is annexure A that I previously tabled.

Then a Canberra doctor, Alex Proudfoot, became concerned because he believed that people were needlessly contracting AIDS. He had had some years of experience directly in public health administration in the area of sexually transmitted diseases. On 1 December 1990 Dr Proudfoot filed a freedom of information request to the ACT Health Department which sought all documents relating to HIV/AIDS notification procedures. The department delayed and resisted releasing the documents. The department then charged Dr Proudfoot $1,000 as a cost for his application, which he paid. After the time limit for response had expired, Dr Proudfoot appealed to the Administrative Appeals Tribunal. Eventually he received a large batch of documents, including annexure A, the legal advice which I tabled earlier. On 11 August 1991 Dr Proudfoot wrote to Mr Berry saying:

> I write to draw to your attention flouting of the ACT law on HIV notification and consequent preventable spread of AIDS.

Dr Proudfoot continued his letter by detailing several case histories which he says make clear the dangers of continued non-compliance with the law in question. The first two cases are HIV patients whom he says he became aware of in the course of his work as a medical practitioner. In the first case history he set out for Mr Berry's enlightenment, Dr Proudfoot ends by saying:

> If a proper notification scheme had been in place, the woman's HIV infection would have been notified to the public health authority, who would have ensured that the spouse was told. Thus, the spouse's life would have been saved.

In the second case history he included in his letter to Wayne Berry, the last sentence says:

> The Board of Health's policy of non-compliance with the law on HIV notification may well cost the man's wife her life.

I pause to note that the Chief Minister is reading a copy of *Realtor*. That is an interesting condemnation of the Chief Minister, who is not prepared to listen to the evidence that I present.

MADAM SPEAKER: Mr Stevenson, I am loath to interrupt you, but I will now interrupt on two bases. First of all, because you have chosen to digress, I will ask you to refer to Mr Berry as Mr Berry, not Mr Wayne Bruce Berry, or Wayne Berry, and I will ask you to desist from commenting on what the Chief Minister is or is not doing. There will be a matter later that I will raise with you in terms of imputation of members' motives. Would you please continue your speech on that basis.

Mr Kaine: I raise a point of order, Madam Speaker. There is at least a longstanding convention in this Assembly that members will not read newspapers and other like documents in this house. I think it is quite appropriate for Mr Stevenson to draw attention to the fact that the Chief Minister is reading such an irrelevant document.

MADAM SPEAKER: Mr Kaine, it has not been a convention that has been tested since I have been in the chair, but I would be happy to continue it if that is indeed the case. Mr Stevenson, would you continue, please.

MR STEVENSON: Thank you, Madam Speaker. Presumably to make sure that the Health Minister was left with no uncertainty as to the facts of the situation, Dr Proudfoot ended his letter with these words:

> Would you please answer the following questions:

(1) Do you have any doubt that the law on HIV notification in the ACT is as I have described it?

(2) If so, will you obtain a formal legal opinion on this subject from the Attorney-General?

(3) If you have no doubt that the law on HIV notification in the ACT is as I have described it, will you instruct the Board of Health to operate an HIV notification system which complies with that law?

I have already tabled the document entitled "Annexure B".

On 20 August 1991 Dr Proudfoot again wrote to Mr Berry and referred to an article in the *Canberra Times* of 18 August 1991. In this article a prostitute identified the problem of those people who are contacts of HIV infected persons not being notified of the danger, as would routinely occur with other notifiable diseases. In his letter Dr Proudfoot says to the Health Minister:

> Since the Board of Health (contrary to legislation) declines to receive statutory notifications of HIV infection, the MOH never hears about HIV infections, and no official action is taken.

Dr Proudfoot's letter ends with the following:

> This seems to me a powerful argument in favour of implementing the law on notifiable diseases in respect of HIV infection, instead of treating HIV infection differently from other notifiable diseases. Do you agree?

I have already tabled a copy of this letter from Dr Proudfoot, entitled "Annexure C".

On 18 September 1991, Mr Russell Bayliss, principal solicitor with the ACT Government Solicitor's Office, prepared the advice Dr Proudfoot had exhorted the Minister for Health to obtain. On 2 December 1991 Wayne Berry wrote to Dr Proudfoot and acknowledged receiving both of the doctor's letters. In his letter, Mr Berry stated that the HIV/AIDS Related Legislation in the ACT Review Committee was reviewing the notification requirements named by Dr Proudfoot. He then wrote:

> The intention in the meantime is to amend the Regulations to make all stages of HIV notifiable in coded form, in line with recommendations which will be put forward in the Committee's Discussion Paper. This process of amending the Regulations has commenced.

This provides the answer to our third question. *(Extension of time granted)*

Was Mr Berry aware of this law, or should he have been? By the very act of acknowledging receipt of Dr Proudfoot's letter, Mr Berry proved that he had been notified of this law, and notified that the law was being broken by his department. He knew. This letter from the Minister completely evades answering the pointed and specific questions posed in Dr Proudfoot's letter of 11 August 1991. It blatantly implies things that are not true and have never been true. For example, it says:

> As you are aware there are a number of interpretational problems with respect to the wording of the relevant Regulations ...

The fact is that neither Dr Proudfoot, nor the Health Department's own legal director, nor the Administrative Appeals Tribunal, nor anyone else, has, or could have, an interpretational problem with such clear wording. Indeed, the evidence shows that they were aware of no such thing.

I will show that the only claims that there were interpretational problems with this law came from those people who did not agree with the law, who wished the law was different and who proceeded to ignore these clear legal requirements. The evidence, including the reasons for decision in AAT case C92/17, shows that the Minister and other senior public servants knew the law, were aware that it had been confirmed by the Health Department's own legal director, Mr O'Halloran, but nonetheless chose to ignore the law. Despite the absolute clarity of Dr Proudfoot's questions, the Minister's response does not answer them. Instead, it merely claims that the Attorney-General's advice on the matter suggests that the regulations are unclear. The Minister's letter does not explain which regulations are supposed to be unclear, or how. Thus the Minister failed to disclose the Attorney-General's reading of the law to a doctor who requested crucial information on his legal responsibilities.

To compound the problem, the Health Minister has taken every action possible to prevent disclosure of this ruling on a point of law. The Health Minister's letter ignored Dr Proudfoot's request that the Board of Health be instructed to comply with the law. Mr Berry, in signing the letter, has evidenced that he is guilty of flouting the law he swore to uphold. He did it knowingly and had no intention of doing otherwise, even after such clear and repeated communications on the illegality of his position had been put to him, as I have detailed above. I have already tabled a copy of the Minister's letter, entitled "Annexure D".

On 9 December 1991 Dr Proudfoot filed a FOI request - his second in relation to this matter - with the Health Department, seeking to obtain a copy of the Attorney-General's legal opinion referred to in Mr Berry's letter. This request was denied by Dr Vin McLoughlin on 13 January 1992. Dr Proudfoot then appealed for an internal review of the decision to deny access. This review was done by Ms Gillian Biscoe, chief executive of the Health Department, who, on 28 January 1992, refused to release this apparently simple legal ruling about a law which binds all medical doctors, pathologists and hospital managers in the ACT. On 29 January 1992 Dr Proudfoot, at his own expense, filed an appeal against this non-disclosure with the Administrative Appeals Tribunal. The file number is C92/17, to which I referred earlier.

On 17 April 1992 Dr Proudfoot wrote to me expressing dissatisfaction with the Minister's response and formal refusal to release the Attorney-General's legal opinion. On the spurious ground of legal professional privilege, Mr Berry had refused Dr Proudfoot's request to make public this document which supposedly only clarified the fact of what the regulation required ACT medical practitioners and administrators to do. One must ask: Why is the law held by Mr Berry to be secret? After putting sound reasons for preserving public health by complying with this reporting requirement, Dr Proudfoot states:

> For the last few years the ACT public health authorities, at the behest of community groups with a conflict of interest in AIDS policy, and with the connivance of government, have deliberately flouted the law on HIV reporting. Now in an attempt to legitimise its dereliction of duty, the government plans to amend the law.

I have already tabled a copy of this letter from Dr Proudfoot, entitled "Annexure F".

On 21 April 1992 I personally wrote to the Health Minister on Dr Proudfoot's behalf. I sought answers as to why it was suggested that the HIV reporting requirements should be changed and why the Attorney-General's advice was being withheld. I have tabled a copy of my letter to the Minister, entitled "Annexure G".

In May 1992, Discussion Paper No. 1, headed "HIV/AIDS Related Legislation in the ACT - Options for Change", was issued under the authority of Margaret Norington, director of services policy of the ACT Board of Health. In this paper, on page 5, there is a subheading "Public Health (Infectious and Notifiable Diseases) Regulations". I quote in part from that section:

> Under the Regulations, medical practitioners, hospitals and pathologists are required to report cases of Acquired Immune Deficiency Syndrome to the Medical Officer of Health ... by full name, giving details of address, date of birth and the treating medical practitioner's name ... HIV infection has not been notified except in coded form for research and statistical purposes.

We will recall the clear legal statement given by the Health Department's legal director, Mr O'Halloran, "Annexure A". This was unequivocal advice that HIV and full-blown or category A AIDS were to be treated as one and the same for purposes of compliance with these reporting requirements under the regulations. In spite of this, senior public servants, in full knowledge of the fact, continued to act illegally for some considerable period of time. This was with the full knowledge and complicity of Mr Berry as Health Minister. This answers question No. 4 and proves that Mr Berry failed to uphold the law. His own director of services policy of the ACT Board of Health stated that, though the law required the full name and address and other details of HIV/AIDS patients to be notified to the Medical Officer of Health, this was not being done. I have already tabled a copy of page 5 of the document I quoted, entitled "Annexure E".

On 17 June 1992 the *Hansard* record shows that Mr Berry, addressing Mrs Kate Carnell on HIV reporting procedures, said:

> What she wants to do is to drive HIV sufferers underground. That is what she wants to do. There is an agreement between all State governments on the way that HIV is notified. It is notified in a coded form - - -

Mr Berry then went on to say:

> It is notified in a coded form ... Voluntarily.

(Extension of time granted) Thank you, members. South Australia and Western Australia require full, detailed reporting and, until recently, so did Queensland and the ACT. Mr Berry misled the Assembly when he claimed that it was otherwise. In answer to question No. 5, this provides the evidence that Mr Berry misled the house. On this occasion, though, he went on to reiterate that he well knew that his department was failing to require the legally mandatory full reporting. He said:

> ... HIV will continue to be notified differently from other infectious diseases because we are not going to drive HIV sufferers underground.

Question No. 4 is answered again. This again evidences that the Health Minister knew that the law was being broken and in fact directed that this be done.

On 10 July 1992 the Minister replied to my letter of 21 April 1992 in the same misleading style as his earlier letter to Dr Proudfoot. I state his reply in part:

> ... regarding Dr Alex Proudfoot's concerns about the reporting procedures for HIV/AIDS in the ACT and the fact that he was unable to obtain a formal legal opinion from the Attorney-General's Department on this matter.

This is misleading. It is not a fact at all that the difficulty was with the Attorney-General's Department. As Mr Berry himself signed the letter, he was fully aware that it was he and his own Health Department who were withholding the Attorney-General's advice and being improperly obstructionist. I will shortly set out why I say "improperly". What is plainly stated in the Health Minister's letter to me - I quote it in part - is this:

> HIV ... has not been reported, except in coded form for research and statistical purposes. The proposed amendments to the Regulations will make all stages of HIV notifiable in coded form ...

What Mr Berry then says quite clearly above his signature, in two consecutive sentences here, is that HIV has been reported only in coded form. That means without personally identifying the patient. Mr Berry then says that the proposed amendments, which obviously must involve some change of some sort, will then - this is evidence that it was not the law now - require HIV to be reported in coded form; that is, without personally identifying the patient. Simply put, you cannot change something and have it end up as it was. Inescapably, then, he is admitting that at the time of writing his department had not been and was not complying with the law, whose requirements he well understood. Question No. 4 is answered again. Mr Berry has again provided evidence that he knew that that notification law was not being complied with. I have tabled a copy of Mr Berry's letter to me, entitled "Annexure H".

On 13 August 1992 the ACT *Hansard* record shows that the same Minister said:

> In 1986 the Medical Officer of Health issued a bulletin to all ACT medical practitioners stating that all categories of infection with the virus were notifiable. The regulations, as they stand, require notification in accordance with ... Schedule 1, and this includes full name and address.

I have tabled a copy of the *Hansard* of that date, entitled "Annexure I". Question No. 1 is answered again. This is evidence that Mr Berry clearly knew that the law required the reporting of the full details of all patients. All categories of infection with the virus were notifiable. Then, in his very next breath, Mr Berry says plainly that his Government has decided to ignore the law. He said:

> However, a policy decision has been made to bring the ACT into line with the practice in New South Wales and Victoria ... where coded information ... is required.

The simple fact is that this coded advising of HIV/AIDS cases had been the norm for some time under this Minister. Mr Berry well knew that it was illegal, as we have already established; but he did it anyway.

On 5 November 1992 the Administrative Appeals Tribunal ruled that the Health Department, in refusing to release the Attorney-General's legal opinion to Dr Proudfoot, was wrong. The AAT ordered the document to be released by 12 November 1992. Notwithstanding this AAT order, and with Mr Berry as their Minister, the Health Department decided that medical practitioners and the public should still not know what the Attorney-General's ruling was on the requirements of the reporting law. They refused to release the document,

although the Administrative Appeals Tribunal had instructed them to do so by 12 November. Instead, on 11 November 1992, they committed more public funds to a needless legal defence of their indefensible position by appealing the matter to the Supreme Court, thus deferring the disclosure for months. Why they did this should, by now, be perfectly clear. In its reasons for decision the Administrative Appeals Tribunal highlighted some relevant facts. It reiterated Mr O'Halloran's legal minute to senior Health Department officials, "Annexure A", where it said:

> There is no definition of AIDS in the regulations nor any division of AIDS into "types" or "categories".

Question No. 1 is answered yet again. This is a clear statement that the law required that HIV/AIDS should be fully notified. So, on reflection, the many differing claims by Mr Berry and his department were sheer obfuscation - debate over distinctions which were known, for a fact, not to exist. It is highly significant that the AAT, having viewed the Attorney-General's legal opinion, prepared by Russell Bayliss, disclosure of which was being frantically resisted by the Health Department, said as follows:

> It is clear enough from the material before the Tribunal that neither the Minister nor the Board of Health required advice on the law.

Cunning duplicity is not an attribute appropriate to a Minister, yet a statement tabled on 13 August 1992 reeks of just that. In it the following statement appears:

> I would now like to inform the house that I am advised that ACT Health has never notified medical practitioners, pathologists and the hospitals that they no longer need to give name and address when notifying AIDS.

This would appear to be deliberately misleading. "Annexure A", as tabled, names the fact that Mr Cheshire of Mr Berry's department wrote a circular, which it refers to as a press statement, to branch heads, stating that only full-blown AIDS was notifiable. This certainly was circularised, although not perhaps to every doctor in the Territory.

If Mr Berry's claims are not false, how could he explain the statement that I quoted at the outset from the AIDS management group, wherein the Medical Officer of Health referred to a problem with non-reporting by doctors? What she said was that the problem arose "following Health Authority communications". This again answers question No. 5, and proves that Mr Berry misled this parliament. It does not matter why Mr Berry chose to persistently refuse to uphold the law. The only thing that matters is his failure to do so. Even without the letters that the Health Minister signed, which clearly show his guilt, there is ample evidence proving that he was well aware of the illegal nature of what he did, or failed to do.

The question arises as to why the Health Minister would behave in this manner? A clue may be obtained from his comments in this Assembly on 26 November 1992. On that day he was earnestly seeking to defeat the motion by Kate Carnell which would disallow a regulatory change he himself had just made. The regulation, as revised by Mr Berry on 17 November 1992, changed the law to require the reporting of HIV/AIDS cases in coded form only - that is,

without personally identifying the patient. *Hansard* will show that on that Thursday Mr Berry said, when stating how the new notification of HIV/AIDS would operate, that "it would be in coded form, because coded form is the way to go when dealing with this issue". Mr Humphries then stated:

> You and your people in your circle of advisers who felt that there ought to be some change in the law, and hoped to make that change in the law by government fiat rather than by actually changing the letter of the law, got caught out.

Mr Berry replied:

> No; I am sick of you people driving HIV sufferers underground, and something had to be done to clarify the issues.

Mr Humphries said:

> I see; so, you are prepared to change the law without telling the Assembly about it until you went too far. Is that the situation? Okay, we know where we stand now.

Mr Berry replied:

> No; to do something to clarify it and to stop you people.

Mr Berry clearly feels that only coded information should be notified. As an individual, he is perfectly entitled to hold that opinion. However, he had no right to ignore the law that he, as a Minister, had a responsibility to uphold on behalf of the people of the ACT.

As Mr Humphries said, by having his department ignore the requirements of the law entirely, he exhibited a belief in his power to operate by fiat. Fiat is defined in the dictionary as "an authoritative order or command: decree". This is how monarchs, with absolute power, used to rule. It has nothing to do with democracy. Compliance by Ministers of the Crown with the rule of law is an absolute requirement. No transgression of that can be tolerated. It never has been. The paramount importance here is that, ahead of all other citizens, members of parliament and, even more so, Ministers of the Crown must never place themselves above the law. They are our appointed custodians of the law. That sacred trust must never be breached.

I again state clearly that this matter is not about the relative merits of a health law. It is about whether Mr Berry upheld the law or allowed the law to be broken. I have been advised by legal counsel who have studied this brief that the law allows several different criminal charges to be laid against Mr Berry for his deliberate, knowing and repeated violation of his statutory duty as a Minister. This is a matter which also needs to be progressed. Further, my several legal advisers have agreed that this is a classic case of negligence and have recommended that persons adversely affected by the Health Minister's failure to uphold the law could seek legal advice.

Ninety-nine Federal Ministers have resigned or been dismissed from the parliament, in some cases for misconduct. Only one or two of those Ministers had blatantly transgressed the rule of law as clearly as Mr Berry has done. Only two had the indecency not to resign and had to be removed. Now that the

facts are there for all to see, the Health Minister should accept that his failure to uphold the law is known. He should, without delay, resign his seat in this Assembly and, of course, his ministerial responsibilities. If he has to be pushed, it will be to his eternal disgrace.

If the Health Minister will not resign his ministry and will not resign from this Assembly, the responsibility falls to the Chief Minister, Rosemary Follett, to initiate whatever action is necessary to bring about that result. It is she who has been elected as the senior Minister in this Assembly. It is she who appointed this Minister. She must ensure that Ministers do not disregard the law, and, if they do, take appropriate action.

It is the solemn duty and responsibility of each and every member in this Legislative Assembly to vote for this motion and then to ensure that Mr Berry resigns from this Assembly. Any considerations of friendship, party allegiances or ideological affiliations must be put aside. The Minister has violated his statutory responsibilities to the people of Canberra and to this parliament. He has now been exposed. He must go. A vote against this motion would be a gross dereliction of our duty under our oath or affirmation of office.

Ms Follett: Madam Speaker, I raise a point of order. Under standing order 213, I think it is, I ask Mr Stevenson to table the entire document which he has read.

Mr Stevenson: I willingly do so, Madam Speaker.

MADAM SPEAKER: Thank you, Mr Stevenson.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (3.47): This is a war about whether or not HIV ought to be notified in coded form. That is clearly - - -

Mr Kaine: I think you had better address the real issue, Minister. If you are serious about this, you had better address the real issue.

MR BERRY: I sat here very quietly while Mr Stevenson went through his speech. The moment I get to my feet there is a cacophony from the Liberals - - -

Mr Kaine: I am just warning you. I am just warning you to address the real issue.

MR BERRY: Madam Speaker, here they go again. There is a cacophony from the Liberals, who cannot hold their counsel until after I have spoken. Would you please instruct them to be quiet?

MADAM SPEAKER: I remind members of the requirements of our standing orders. Please proceed, Mr Berry.

MR BERRY: Thank you. This is an argument about whether or not HIV ought to be notified in coded form. There has been a difference of opinion in some quarters about the interpretation of the law. Undoubtedly, Dr Alex Proudfoot has one view and other policy people have a different view. The fact that in the time of Gary Humphries as Health Minister and in my time as Health Minister these things were notified in coded form is a clear indication that this is a policy decision that has been in place for a long time. Successive administrations have interpreted the law, rightly or wrongly, to mean that this ought to be notified in coded form.

It is all right for people to embark on a campaign about those issues. I would not expect any support from Mr Stevenson on anything where one is shown to support a view which just happens to be supported by the gay community. I would not expect Mr Stevenson to support me one way or the other there. The gay community very clearly support the notification of HIV in coded form. They do that for very clear reasons, because of their fears about discrimination. Professionals throughout the world know that where there is a fear of discrimination when it comes to the reporting of HIV there is a grave risk to the community that the notification of the disease will not occur because of that fear of discrimination. Madam Speaker, from my point of view that is a correct view. Leading experts in this field form the same view. The most recent report of the legal working party of the Intergovernmental Committee on AIDS - I think I have said in the past that it was issued on 9 November, as I recall - says, in recommendation 2.1.2:

> Only coded (i.e. non-identifiable) and confirmed ... data should be required to be notified in State and Territory public health legislation with the obligation to do so being placed on laboratories in cases of HIV infection and on doctors in the case of clinical diagnosis of AIDS.

I support that view, and that is a view that has been supported by, as I have said earlier, successive administrations of health in the ACT. I have also said that there are differing views about this. Some people out in the community believe that there should be no distinction between HIV and other reportable diseases, and there is a very distinct group of experts who say that there ought to be. So, on health grounds, Madam Speaker, I think the best outcome is for it to be notified in coded form. One day in the future, when there is no fear of discrimination because one is unfortunate enough to have caught HIV or to have AIDS, in the various circumstances where that can happen, maybe it could be treated differently; but in my view, and in the view of those who support my view, that is not the case now.

I am not going to argue about the legal position. I will say, though, that the campaign that has been run by Dr Proudfoot has been based on a different view from that which I have just expressed. That is made clear in his letter, which was referred to as "Annexure B" by Mr Stevenson. He says:

> Many jurisdictions throughout the world (including Queensland and several states of the USA) operate a system of compulsory HIV notification with full identification to the public health authority.

He goes on to say:

> I believe such an arrangement would save lives. As I have explained, the law of the ACT has laid down such a system, but the law is being flouted.

He, quite obviously, has a different view from all of the other experts around the country. The Liberals have expressed a view similar to Dr Proudfoot's.

What this motion of no confidence is about is my behaviour in relation to this matter. As I have said, Health, under my administration, has administered this particular law in the same way as it has been administered in the past. Mr Stevenson makes claims about the meaning of the law, but it has never turned up in a court. I would have to say that, if it had done so and there had been a particular view of the court, people might have had a view one way or the other which conformed with the express view of a court; but that, of course, on my understanding of it, has not occurred.

My approach to this entire matter has been on the basis of advice from my department. That, very clearly, has a health bias and, as far as I am concerned, on health grounds we have behaved impeccably. As a result of the confusion and debate which has occurred in the community, because of the claims about the way that HIV and AIDS were being notified in the Territory, members here had the opportunity to debate how we would deal with the issue of HIV and AIDS in the ACT and, thankfully, they supported my view and the view of the Government in relation to the notification of HIV and AIDS. That occurred in only recent times when a motion for disallowance of the regulations was moved by the Liberals. That resulted in the defeat of the motion. The regulations now make the position in relation to HIV and AIDS abundantly clear. It is also clear that there are still people out there who disagree with the approach that is being taken by the Government. The Government, in my view, is correct on this one, and those who disagree with the Government in relation to this matter are wrong. If they had their way we would have to deal with an explosion of AIDS in the community, an explosion which we quite easily can avoid by this process.

This entire issue, in my view, has nothing to do with a particular view of the law; it is merely a view about the process of dealing with AIDS. If the members of this Assembly wish to express a vote of no confidence in me because of the way that I have handled the notification of AIDS in the ACT, let them do it. I am confident that I am right on this. I have the backing of the Intergovernmental Committee on AIDS. I have had the majority support of this Assembly, and I expect that I will continue to have it.

If Mr Stevenson's view is held by some to be correct, they should keep in mind the recent facts. I have declared very clearly the Government's position in relation to the notification of AIDS. There has been no secret about it. I have been unswerving in that regard, and I will continue to be. Where the matter needed to be sorted out, we did it. We made it very clear that we intended to change the law to provide a very clear and unambiguous position for everybody who would read the legislation. I am not going to say that the conflicting views about what the law meant were right or wrong in any respect, because so far as I know they have not been tested on either side.

Mr Stevenson also talked at some length about the process which Dr Proudfoot had been subjected to, the quite ordinary process with freedom of information, and the testing of the freedom of information in various jurisdictions. It was quite normal. The matter is now before the courts and, so far as that part of it is concerned, it would be quite inappropriate for me to discuss those aspects.

For Mr Stevenson to say that I flouted the law is quite clearly an emotional position which has no substance. My position as Health Minister is to defend the health of the people of the ACT. The experts around this country, and the New South Wales Liberal Government, the Victorian Government and others, support me in that respect. I am quite happy with the way that that process has ensued. The paper trail which Mr Stevenson spoke about in his speech is something that I have not been able to address in detail, but I have no reason to say that the timing of all of the letters and all of the letters that he has put forward are inaccurate in any way, without having the time to check them. I know that one particular letter to Dr Proudfoot made very clear our position in relation to the notification of AIDS and how we intended to continue to pursue it. I think this Assembly itself can be congratulated for adopting new regulations. *(Extension of time granted)* The passage of those regulations in this place made it quite clear.

I think Mr Stevenson talked about inaction at one point in his motion. He talks about contrition and flagrantly breaching statutory duty to uphold the rule of law. This is a view which is expressed by somebody who is opposed to the outcome of the Government's deliberations. I say, Madam Speaker, that the motion is tainted by a particular position about the way that we deal with HIV and AIDS in the ACT. Dare I say that there is also, I suspect, an element of homophobia involved in this whole process. I think that that is regrettable. I think the record will show that not only have we provided the right sort of skill, care and attention, if I can use those terms, for people who suffer with AIDS, but also we have done it for the community as well, and we will continue to do it.

MR KAINE (Leader of the Opposition) (4.04): The motion that is before us is a serious one. My interjection when Mr Berry got to his feet was not intended in any way to be derisory; it was to warn him that this is a serious matter and that he should address the issues that the motion raises. It is distinctly not about what Mr Berry or anybody else thinks about the reporting of HIV and AIDS. It is about the behaviour of a Minister. That is why I interjected. It is a very serious matter and it is not one that I can skate over lightly. I suggest that it is one that the Minister may have addressed differently. That is why I interjected. I would very much dislike to be in the position that the Minister is in now, of being confronted with a motion of no confidence, and I would have appreciated somebody suggesting to me, perhaps in the heat of the moment, that I needed to address the issue. The Minister has not done so.

I have kept out of this debate on the notification of HIV/AIDS up until now because Mrs Carnell has been conducting it very competently. There has been an exchange across the floor of the house between Mrs Carnell and the Minister. The Minister has stood his ground, for whatever reasons, even though I believe that he is wrong; but I have not intruded. Now I cannot keep out of it, because it is a much more serious matter than a debate about notification of HIV and AIDS. Mr Stevenson has put together a fairly convincing picture of a Minister who knows the law, who has been advised by his legal advisers of what the law is, but who has failed to put that law into effect. In fact, I suggest, he almost convicted himself when he got to his feet and said, "Sure, I know the law. I do not agree with it, and I think I am justified".

I would have thought that the Minister would have attempted to explain why he took the position he has. If he had done it on the basis of saying, "We are seeking to amend the law and the processes are in place", I might have been more convinced; but he did not say that. He said, "I do not care about the law. The law is wrong, and everybody that takes a contrary view to me, Wayne Berry, is wrong on this issue". The remedy for the Minister, if he believes that the law is wrong - the debate has been going on for a long time - is to seek to amend it. Had he done so, there would have been a debate on the floor of the house about whether the law ought to be changed. If he had been able to convince us of the rectitude and the quality of his argument, we would have amended the law, and what he did from there on would have been in accordance with the law. But he has told us that he does not care about that.

It is a matter of some concern to me that a Minister does not care what the law says. He has a different view and he is going to set the law aside. In so doing, Madam Speaker, he has encouraged his senior public servants to do the same. So, they are acting outside the law as well, presumably in the belief that they are being supported and protected by their Minister. I submit that they cannot be. Mr Stevenson says that the legal advice that has been given to him in connection with this matter suggests that people who have been adversely affected by this disregard of the law ought to seek legal counsel. That sounds an ominous note to me, not only for the Minister but also for his public servants. I think that a few people, if they were not concerned up until today, ought to be well and truly concerned after this matter has been spelled out in so much detail by Mr Stevenson this afternoon. If the Minister has a counterargument and wants to refute the validity of what is said, he has had his opportunity; but he failed to do so, Madam Speaker, and that is a matter of major concern, I think.

There is still the bottom line question in my mind which the Minister still has not explained. There is a recent legal opinion which affects medical practitioners out there in terms of whether they are complying with the law or not. Why is it that the Minister refuses to tell them what the legal advice is? How do they know where they stand vis-a-vis the law if they continue to comply with what directives they have been given by the health organisation and the Minister? If somebody brings litigation against them, where do they stand? That legal opinion is important to medical practitioners, pathologists and the like, and to our own health professionals; but the Minister suppressed it and he has not explained why. What is there in that legal opinion that requires that it be held secret? This is a legal opinion about the law of the Territory. I can see no justification for keeping it secret. In fact, you have to ask: Why has the Minister done that? He did not answer the question.

I have to accept the evidence that Mr Stevenson has put before us. It has been tabled. It all seems to be properly documented. They all seem to be legitimate documents. The dates seem to coincide with the dates that he mentions; the facts seem to coincide with the assertions that he has made. The Minister has not attempted in any way to refute it. So, I think it puts me and all the other members of this Assembly in a very difficult position. Either we set this allegation aside as being totally irrelevant or we pay due regard to it, in which case the consequences for the Minister must be serious.

I do not quite know how to proceed from there. I think I ought to remind the Minister again about the seriousness of this matter and perhaps give him another opportunity to refute the allegations that are being made against him. He did not seem to take them too seriously the first time around. I would much rather hear his justification, if he has one, before the Assembly votes on this matter, because it is indeed a very serious one.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.11): The Government is in a somewhat difficult position in arguing the defence here because there is an issue about a legal advice on which we took a point of legal professional privilege. Mr Humphries would be aware that that is a legitimate point for any government to take. There was a decision handed down in the Administrative Appeals Tribunal which was adverse to the Government's assertion there. An appeal has been lodged and is awaiting hearing in the Supreme Court. Mr Stevenson waxed lyrical about that and was suggesting that there were all sorts of conspiracies involved in that.

The simple fact of the matter is that the appeal was taken not on the basis of the merits or demerits of the particular document. Mr Kaine was suggesting again that there was some conspiracy shown by the fact that we were not releasing the document. The point is that we have appealed on grounds that the tribunal was wrong in law and that its basis, its test, for what legal professional privilege is, as applied to advice that an ACT department receives from the ACT Government Solicitor's Office, would significantly weaken the hand of any government of any political persuasion in the future. It would mean that the relationship between a government Minister and their legal adviser would be significantly different from the relationship between any member of this Assembly and their legal adviser.

If any members are inclined to take the view that there is something fundamentally evil about a government wishing to preserve confidentiality in the relationship between its agencies and their legal advisers and to keep their legal advice confidential, if they think that is a bad thing, I would ask them whether they would be happy if their relationships with their legal advisers were equally not subject to any form of privilege. I suspect that if they ask themselves that question they will be less inclined to see something conspiratorial in the fact that there is an appeal being run on the general grounds of the law in relation to legal professional privilege.

Our argument - I do not want to go further into it, because obviously it will be litigated - essentially is that the test that was set down by the ACT Administrative Appeals Tribunal in the Proudfoot matter sets a test of what is legal professional privilege that is fundamentally different from tests that have been put down by that tribunal in its Federal jurisdiction, and indeed by the courts. That matter will be resolved one way or the other by the Supreme Court.

Mr Stevenson's indictment is full of very flowery phrases about Ministers of the Crown and references to Annexure F and Annexure D, and it all sounds very impressive; but essentially it comes down to this issue that has been debated at length in the place, and that is, "What do you do about notification of HIV?". Mr Kaine said that it is an issue on which there has been a difference between the Government and the Opposition, and the Opposition is somewhat at odds with similar Liberal governments across the country. The facts of the matter are that

you have a complex issue. You have an old set of regulations which put a definition of AIDS in about 1983. In 1983 AIDS was known. What caused AIDS really was not. People thought it was probably a virus, but the actual virus was not isolated until a year or so later. In respect of the definition of AIDS in the regulations as they then stood, there was a deeming clause which said:

> For the purposes of these regulations, where the organism presumed to cause an infectious disease or a notifiable disease is found to be present in a person, that person shall be deemed to be suffering from that disease.

One may conclude from that, one may take a view, that showing HIV positive brings you within the definition of AIDS, but an alternative view would be that a HIV positive test shows only the presence of antibodies and does not necessarily show the presence of the organism. So, there is an ambiguity between a definition that is drafted by a lawyer and professional medical advice. So, you had a set of regulations that were very difficult to get clarity for. A lawyer may take a view and a doctor would take another view, and you have a Minister who has to administer those regulations getting advice essentially from his health professionals. Then there is a legal advice which enters the picture, and which of course I cannot canvass because of the fact that that is subject to a Supreme Court appeal.

Mrs Carnell: That would make measles and rubella unnotifiable.

MR CONNOLLY: But, Mrs Carnell, the point remains that there is an ambiguity as to what these regulations said when drafted back in the days when we really did not know what we were dealing with. While there is a difference - Mr Kaine is right - between what we say should happen with notification and what you say should happen with notification, I think - - -

Mr Kaine: No, no; what the law says.

MR CONNOLLY: No, no; no, no. What I am getting to is this: If your favoured position was to be put into law today you would not say that it is the regulations as they once stood. You would clarify what it means. These sorts of open definitions and ambiguous definitions would be replaced. So, you have a Minister who is getting advice from his medical professionals, who is acting on that advice, and who is administering a practice - and this is important - which has not changed over changes of administration. If we go back to the legal advice which has been tabled, and it really forms the centre point of Mr Stevenson's indictment, it is that 1986 legal advice. The practices that occurred from 1986 onwards seem to have changed little.

To the extent that there is any mala fides in the administration of Mr Berry, you have to track that back to the administration of Mr Humphries and previous Commonwealth Ministers administering health in the ACT. While Mr Stevenson may be attempting to attack Mr Berry - there may be, dare one suggest, some partisan politics in this, and members opposite may feel tempted to play some partisan politics with this - members opposite should realise that the indictment that Mr Stevenson is drawing catches in its net not just Mr Berry but other persons who have been administering that Act.

All of this ambiguity about definitions, about what a lawyer may say when reading a definition and what a medical professional may say when reading that definition - bear in mind that we have no authoritative ruling on these regulations as this matter has never been litigated - was resolved by the Minister bringing forward into this Assembly a set of regulations which clarify the position. Members opposite disagreed with that revised set of regulations. We had a debate about it and at the end of the day the regulations that this Government brought forward were upheld. Had perhaps Independent members gone the other way, you may have had a set of legislative changes that Mrs Carnell may have introduced; but that is not the issue. The issue is that ambiguities have been resolved by a Minister on taking advice.

There is some legal advice on the file which is in the document that has been tabled. That 1986 advice, which Mr Stevenson tabled and which he makes a lot of, goes through what your definition of AIDS is - the presence within the body of the organism presumed to cause the infection. You have medical difficulties in so far as that definition really does not match the way we would now define HIV, because we know that the medical test shows an antibody, not the organism. When that definition was written we did not know that. So, you have a law that is susceptible to the views of lawyers and is susceptible to the views of health officials. The overwhelming health advice has consistently been - as, indeed, has been accepted by the New South Wales Government, amongst others, and the National Committee on AIDS - that one should have reporting in a certain form, and this Minister brings to this Assembly regulations to provide that system of reporting.

Madam Speaker, Mr Stevenson's indictment, which suggests conspiracies to breach the law and all sorts of dire consequences, when examined - taking a step back from Dr Proudfoot's very strong views on this subject - really shows a Minister who is grappling with a very complex issue and with a set of regulations drafted in 1983 and dealing with a public health problem. When those regulations were drafted the experts really did not know the causation of that disease. They thought it was a virus, but they did not know how that occurred. There were not appropriate tests. You have a deeming clause which refers to the presence of the organism causing the disease, and you have a medical test which can show the presence of an antibody from which a medical person may make a deduction but which one queries as to whether the definition establishes the presence. You have ambiguities from a health policy perspective and a Minister taking the sensible course of action, which is to bring forward some regulations.

Members may criticise the speed at which regulations were brought forward, and that gets us back to partisan political debates about whether the regulations were right or wrong or whether they were brought forward too fast or too slow; but at the end of the day this Minister, given those ambiguities, brought forward clear regulations which were endorsed by this Assembly and which solved the problem.

MR HUMPHRIES (4.21): Madam Speaker, I think it should be made perfectly clear once again, as far as we on this side of the house are concerned, that we are not reopening the debate per se about HIV notification. That debate was had out on the floor of the Assembly a few weeks ago. It was clearly resolved in favour of the present regulations which the Minister has produced and which now form the basis of the law in the Territory. I, for one, and I know that I speak for my party, have no intention of reopening that issue. The law quite clearly, it seems to me, is stated now in terms of those regulations.

The issue, however, is what the situation was before those regulations were promulgated and where the Government and, in particular, the Minister for Health stand with his earlier position, which was, it seems to me, that it was possible not to have HIV notified during that time before the regulations were enacted because it was the Government's policy that it not be notified, not that it was, in fact, the law of the land that it be notified.

Mr Wood: What did you do as Minister?

MR HUMPHRIES: I will come to that. Madam Speaker, it seems to me that Mr Berry's defence has been this: "Because the correct view is that HIV/AIDS should not be notifiable, as a matter of principle, I, the Minister, was justified in pursuing that policy and making that the policy of my department irrespective of what the law actually said on the subject". Madam Speaker, if that is what is being advanced by the Minister, it is a proposition which is extremely serious and which, I think, must be rejected by this Assembly. The Chief Minister shakes her head and says that that is not the defence. Unfortunately, I have not heard anything else, and I do not know what else has been put forward. We have heard that the argument - - -

Ms Follett: Terry Connolly just did it.

Mrs Grassby: You obviously did not listen.

MR HUMPHRIES: Madam Speaker, Mr Connolly and Mr Berry were both heard in silence by this side of the chamber and I would ask that the same courtesy be extended to me.

MADAM SPEAKER: Of course, Mr Humphries.

MR HUMPHRIES: Madam Speaker, the argument was advanced that we were right to not make AIDS notifiable. That is an argument which, I think, has been won in a sense on the floor of this Assembly by the Government. That is final and that is out of the way for the purposes of this debate.

The other argument is this: Was the Minister justified in taking the steps that he did to act on that policy when the law stood against him at that time? I will make it quite clear that Mr Wayne Berry has conducted a very consistent and determined campaign to make sure that AIDS not be notifiable in the ACT. I will give him credit for that. Ever since the issue first became relevant he has consistently maintained that.

Mr Wood: It is notified in coded form. Get it right.

MR HUMPHRIES: All right, only in coded form. The question is: Could he sustain that position when the law stood against him? Obviously, a Minister who is a lay person, or even a Minister who is a lawyer for that matter, cannot be expected to know all the law. We have a legal fiction that people know all the law, but the fact is that you cannot know all the law and you have to rely on advice. This is the crucial question, Madam Speaker. The question, it seems to me, is really one of what advice the Government, and particularly the Minister, received on this subject.

I would maintain the view that if the Minister received advice which was ambiguous, which indicated that there was no clear view on what the law said, he would be entitled to initiate action to clarify what the law said, but at least to pursue a policy which accorded with one of those two views of the law. He was entitled, in other words, if that was the case, to ignore the view that AIDS was notifiable in non-coded form and instead pursue a view that it was notifiable only in coded form. But it seems to me that in recent weeks later evidence received by the Government had contained no such ambiguity; that the evidence was overwhelmingly clear that AIDS/HIV was fully notifiable not in coded form but in the ordinary sense and that it has been so notifiable for at least 10 years.

Madam Speaker, the Minister has at his fingertips the power to indicate which of those two views is correct by making clear what his advice actually said. Mr Connolly has suggested that the advice cannot be produced because it is subject to legal professional privilege. Legal professional privilege is, as it were, a shield which is at the disposal of the client who commissions legal advice. A client, generally speaking, pays for advice from his solicitor or his legal adviser. He gets the advice, and that advice from the solicitor to the client is protected by legal professional privilege.

But the client - in this case the ACT Government - is fully at liberty, if it so chooses, to disclose that advice, because it has paid for it. It is its advice. There is no magical barrier which says that legal professional privilege prevents you from putting on the table legal advice you have obtained. If that were the case we would never have seen any legal advice obtained on behalf of this Government - and, of course, we have, on many occasions. So, the question is whether the Government wants to release the advice.

I accept a second point made by the Attorney, and that is that at the present time the Government is involved in legal proceedings in the ACT Supreme Court on appeal from the Administrative Appeals Tribunal and the question of legal professional privilege is actually at issue in those proceedings. I can see an argument there that if we were to publicly make available that legal advice we would prejudice our position in respect of that appeal. I can see an argument to that effect and I am prepared to acknowledge that.

But there is another way out of this matter. There is another way of the Minister or the Government showing us what actually happened, what his actual advice was, without threatening the Government's legal position in that appeal, and that is by giving that legal advice to at least some members of the Assembly on an in-confidence basis. I think we have shown ourselves to be responsible enough in this Assembly to handle that kind of confidentiality without any threat that we would dishonour that trust.

If I were to receive it on behalf of the Opposition, I am sure that that would satisfy my colleagues behind me. If Mr Moore, for example, were to receive it on behalf of the Independents, I feel confident in saying that other Independents, others that sit on the cross benches, would accept Mr Moore's advice on what that meant for this particular debate. There is no need for the document to be publicly released. If that document clearly shows that there was ambiguity, it seems to me that it is now incumbent on the Government and on Mr Berry to table it, or produce it in the way I have just suggested, in order to make it clear that he acted properly. If he does not do that, I frankly think we have to assume that the advice in fact is not ambiguous and is perfectly clear in saying that HIV was notifiable in an uncoded form.

Debate interrupted.

ADJOURNMENT

MADAM SPEAKER: Order! It being 4.30 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.

MINISTER FOR HEALTH
Motion of Want of Confidence

Debate resumed.

MR HUMPHRIES: I accept that this is before a court at present, but when documents are before a court they are not locked away in a steel cell and made unavailable for other people to look at. Originals might be, but copies of documents are certainly available for other people to look at, unless a particular order of the court has been made that they not be published. No such order has been made in this case, to my knowledge, and it is open to the Government, which undoubtedly has a copy of this advice, to give it to even one member on this side of the chamber. That would deprive this motion of the potential to get up. If it clearly showed that there was no case for Mr Stevenson to answer, then that member would be honour bound not to support this motion. Without some tabling of this document we have to conclude, Madam Speaker, that in fact the document does not help the Government and that Mr Berry, indeed, has misled the Assembly and has acted contrary to the rule of law; and that we cannot tolerate.

MS FOLLETT (Chief Minister and Treasurer) (4.31): Madam Speaker, at the outset can I say that I have total confidence in the Minister for Health, Wayne Berry. I think that his behaviour in regard to notification of HIV/AIDS has been appropriate. It has, as we know, had the majority support of this house.

Mr Stevenson's motion, Madam Speaker, relies exclusively, it seems to me, on the evidence of one Dr Proudfoot. It was Dr Proudfoot whom Mr Stevenson quoted over and over again in his very lengthy speech. It is Dr Proudfoot's correspondence which Mr Stevenson has tabled before us today. I have heard Dr Proudfoot described as a medical practitioner. I have not heard him described as a lawyer at any stage. My only previous knowledge of Dr Proudfoot was in relation to his campaign to have funding ceased for the Women's Health Service in the ACT - an unsuccessful campaign, as it turned out. But, Madam Speaker, as I say, Dr Proudfoot is not a lawyer, as far as I am aware, and neither is Mr Stevenson.

I would like to address each part of Mr Stevenson's motion and refute each one of them in series. Part 1 of Mr Stevenson's motion alleges that Mr Berry "has flagrantly and persistently breached his statutory duty to uphold the rule of law by knowingly allowing illegal procedures to continue" et cetera. This is untrue. Madam Speaker, Mr Berry has acted appropriately on all occasions, and particularly in his dealings in relation to HIV and AIDS.

The fact is that, if this Assembly upholds part 1 of Mr Stevenson's motion, then it must move the same motion in relation to Mr Humphries, for the procedures used by Mr Berry until the law was changed were the procedures used by Mr Humphries in the 18 months that he was Minister for Health. I think that we must be very clear that that is the case, and that both Mr Humphries and Mr Berry were aware that that law needed to be changed. As it turned out, it was Mr Berry who changed the law. But let us be very clear that, for the 18 months Mr Humphries was Minister for Health, he used the same processes that Mr Berry had used up to this point. Madam Speaker, if there is any doubt in members' minds about the advice that went to Mr Humphries, I would like to quote from a document dated 25 March 1991. It is a minute to the Minister, then Mr Humphries, signed by Vin McLoughlin, Executive Director, Health Services Development. I will table the document.

Mr Wood: Initialled by Mr Humphries.

MS FOLLETT: It was seen by Mr Humphries and initialled by him. A paragraph of this document reads:

> A number of interpretational problems have flowed from the wording of the Regulations.

The subject of the minute is "Notifiable diseases/AIDS/HIV". It continues:

> Currently, HIV is not deemed as a notifiable disease though information is provided in coded form for epidemiological purposes. Legal opinion on the interpretation of the Regulation varies.

That was the advice to Mr Humphries. I table that document. There is no doubt whatsoever that legal opinion in relation to the notification of HIV and AIDS has varied. If we look at Mr Stevenson's own documents, even in the document dated 23 December 1985, which Mr Stevenson has put forward as proof of his allegation, the writer, J. O'Halloran, Director, Legal, says quite clearly:

> In my opinion this means ...

J. O'Halloran clearly admits that there are other opinions. Madam Speaker, I think that all members in this Assembly will acknowledge that legal opinions vary, that legal opinions may change over time, and that at any one point in time different legal advisers may give different opinions on the same issue. There is no doubt whatsoever that legal opinion on this matter has varied over the years.

I would say, Madam Speaker, that it is also a fact that medical opinion on this issue has varied over the years. HIV/AIDS is a relatively new disease, a very mysterious disease, and it is only as the years progress that more and more information comes to light on the disease - that the risks of the disease become more apparent, that the pattern of infection becomes more apparent, that the people who are at risk become more and more apparent to the medical profession. There is no doubt in my mind that, just as legal opinion on the correct interpretation of the regulations has varied, medical opinion has developed over the years as well. So, I totally refute part 1 of Mr Stevenson's motion, unless members are willing to pass the same motion in regard to Mr Humphries, for that is, indeed, the situation.

Madam Speaker, part 2 of Mr Stevenson's motion alleges that "For this, he showed no contrition". That is simply untrue. Mr Berry has acted appropriately in making sure that the law is now clear. If that is not contrition over a state of affairs which he and Mr Humphries knew to be inadequate, I do not know what is. Mr Berry has now ensured that the notification of all stages of HIV/AIDS is in line with other States, except for Queensland, and is made in coded form. To me, that is an appropriate legal and humanitarian response to this issue in our community. To say that he showed no contrition is simply a political assertion. It is no more than that. It is grandstanding and it is untrue. Mr Berry has acted responsibly, appropriately and with compassion. If it had occurred earlier, if, for instance, Mr Humphries had done it, he would have been applauded by members on this side of the chamber.

Part 3 of Mr Stevenson's motion alleges and reads in part:

> As his behaviour demonstrates a wanton disregard and lack of respect for the law ...

I have already spoken on that, Madam Speaker, and I say again that this part of the proposition is simply not correct. Mr Berry has acted in a timely fashion, or as timely a fashion as was possible, and in due process of law. He has changed the law, Madam Speaker. Up to that point he was aware that legal opinion on the law varied. I am sure that Mr Humphries, as I have proved, was also aware that there was variation in opinion. To interpret that as a wanton disregard and lack of respect for the law is simply political posturing, and Mr Stevenson knows that it is. Madam Speaker, this part of the motion is as offensive and as untrue as is the rest.

The motion goes on to allege "a total inability or, in any event, failure to comprehend the seriousness of his offence". That again is not true. Mr Berry, with the weight of advice that he had sought, changed the law. He took action. He could see that the regulations in relation to notification were not adequate, were not capable of consistent interpretation, needed to be clarified, and he clarified them. That cannot be interpreted in any way as a failure to comprehend the seriousness of any situation. This part of the motion also refers to an offence. There has been no offence. Mr Berry has acted appropriately and with great propriety on this matter. It is this motion which I believe is offensive.

Finally, Madam Speaker, in respect of the fourth part of this motion, as I have said, I have total confidence in Mr Berry as Minister for Health. I do not require his resignation. In fact, it would be extremely distressing to me if Mr Berry felt that this matter in any way reflected on his ability to conduct his portfolio responsibilities. He has acted at all times appropriately, well, and with the best interests of the community that he serves uppermost in his mind. Madam Speaker, I believe that the motion put forward by Mr Stevenson should be roundly defeated on the floor of this Assembly.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.42): Madam Speaker - - -

Mr Humphries: Mrs Carnell should get the next call. She is on this side of the chamber. We should alternate.

MADAM SPEAKER: Thank you for pointing that out, Mr Humphries. It does always come back to whom I see first. I think Mr Wood, unfortunately, was that person this time. Please continue, Mr Wood.

MR WOOD: I want to raise a couple of points that Mr Kaine claimed in his conclusion as the real thrust of the Liberals' argument. These points demonstrate how poorly put together and how weak the Liberals' argument is. Mr Kaine waved this set of papers that has been circulated and said, "It seems to me very well documented, very well considered. It is all there, dated and signed, and that is sufficient". But what are these papers? They are basically letters from Dr Proudfoot to various people, and replies to Dr Proudfoot, concluding with a letter from Mr Stevenson and a couple of other documents. Mr Kaine then went on to say that this is fundamentally - - -

Mr Kaine: What about the internal health organisation correspondence?

Ms Follett: I raise a point of order about the interjections, Madam Speaker.

MADAM SPEAKER: Yes, I was on the point of commenting on them. Mr Kaine, please desist.

MR WOOD: Mr Kaine went on to say that this was fundamentally a legal issue. But the papers and the whole argument show otherwise. It remains an issue about the means of notification of AIDS/HIV. That is what the argument is about. That is what got Dr Proudfoot started on this exercise, and that is what continues to drive him. There is no other question. The legal question is clearly demonstrated in these papers and in other papers to be one of some confusion. That is what the legal situation is. The real situation is fundamental, basic, clear and unmistakable. It is the argument about the way of notification of AIDS/HIV. That is what the issue is and that is where it comes back to.

Mr Humphries: No, it is not.

MR WOOD: Mr Humphries shakes his head and says, "No, it is not". When he got to his feet he lost his argument by default. Very early in the piece I interjected and said, "What did you do as Minister?". He said, "I will tell you".

Ms Follett: But he did not.

MR WOOD: Thank you, Chief Minister. He did not. He carefully avoided the issue, and why would he not avoid it? As the Chief Minister demonstrated in her speech by producing a document, and by the clear record of 18 months of administration, more than anything else, Mr Humphries, if there is any guilt, is as culpable as anybody else. In fact, he is more culpable than anybody else because he did not do anything.

Mr Kaine: It was not brought to his attention. It was brought to the Minister's attention.

MR WOOD: You were not here. You were not here, Mr Leader of the Opposition.

Mr Humphries: Madam Speaker, I ask that that be withdrawn. That is a very serious allegation - that I took no action on a serious matter to do with HIV notification. I ask that it be withdrawn.

MR WOOD: Madam Speaker, I am not going to argue the toss; I will withdraw it.

Mr Humphries: It clearly shows the facts. Read the minute.

MADAM SPEAKER: Thank you, Mr Humphries. Thank you, Mr Wood.

MR WOOD: It says, "Please discuss". Mr Humphries, this was in March 1991. You were Minister until June 1991 - - -

Mr Humphries: April 1991. Look at the bottom of the page.

MR WOOD: You signed it in April 1991. All right. I was looking at the date it came through. It takes you a while to get through your mail, I see. What discussion happened? You did not do anything. The regulations were not changed. You sat on it.

Mr Humphries: I raise a point of order, Madam Speaker. It has been held in the past that to suggest that a Minister failed to act in circumstances where it clearly was incumbent on him to do so is an unparliamentary comment to make. Mr Berry himself has taken that point of order in the past. Mr Wood is wrong to suggest that no action followed from that. It might have been that no action followed on the floor of this Assembly in the little over one month between then and when that Government lost office; but I ask that that be withdrawn, Madam Speaker.

MADAM SPEAKER: Thank you, Mr Humphries, for bringing up that point of order. Mr Wood, I think you were given guidance as to how you should amend your wording.

MR WOOD: All right. If a member objects I will withdraw; I am happy to withdraw. Mr Humphries did not take the opportunity that was offered, just a little time ago, when he said that he would respond as to what he did when he was Minister. He did not take the opportunity, and I wonder why he did not. Did he go back to those regulations? Did he, with his legal training, draw them up and say, "Look, maybe if we do it this way; let us look at this option."? I wonder whether he did that. The evidence is there that it was not brought to the Assembly. Both Mr Kaine and Mr Humphries, in the way they have answered this question, have clearly lost the argument. There are no grounds for them to carry on and to support this case because their own record in this area is quite inadequate. It demonstrates that they let things run and left it to Mr Berry to take some action to clarify the issues, to sort them out, and in the end to do something.

Madam Speaker, Mr Stevenson has come in here, as he is entitled to do, and has carried on the argument that Dr Proudfoot has been running. Dr Proudfoot is an ardent campaigner on a number of issues, and he is entitled to be. That is one of the strengths of the democratic society we live in, which was part of a debate earlier today. Mr Stevenson has picked up that brief and run with it, but this Assembly is the body that will judge the no-confidence motion. Mr Stevenson is obviously comfortable to run with that, because it suits his arguments about the notification of AIDS/HIV; but on the grounds here demonstrated, particularly the weak arguments of the Liberals, there is no basis for any support of what I think is an outrageous proposition.

MR HUMPHRIES: Madam Speaker, I seek leave under standing orders 46 and 47 to make a personal explanation.

MADAM SPEAKER: Standing order 46 is different from standing order 47, so we will do one at a time. In respect of standing order 46, yes, you have my leave.

MR HUMPHRIES: With respect, Madam Speaker, this both clarifies an argument in this debate - - -

Mr Berry: I raise a point of order, Madam Speaker. I am a little worried and troubled by this sort of approach being taken by Mr Humphries. He is attempting to debate an issue through points of order. I am quite happy to support Mr Humphries making a personal explanation after the debate has concluded. If he is to make a personal explanation during the course of the debate, he should make sure that he is not debating the issue. I suspect that that is what he is going to attempt to do.

MADAM SPEAKER: Mr Humphries, I believe that you are entitled to make a personal explanation. Please continue.

MR HUMPHRIES: Madam Speaker, that is a fairly serious allegation and I want to respond to it. Thank you, Madam Speaker. The fact of life is that there was ambiguous legal advice before me and this minute clearly proves that that was the case. The argument - - -

Mr Berry: I take a point of order, Madam Speaker. I am happy for Mr Humphries to support what we have said; but, on a matter of principle and on the standing orders, he cannot proceed.

MR HUMPHRIES: Madam Speaker, you have already ruled that I can make this statement.

MADAM SPEAKER: The point, as you understand, Mr Humphries, is that it has to be a personal explanation of your interpretation of things. Please come to that part of it quickly.

MR HUMPHRIES: I have put only one sentence, Madam Speaker. You cannot expect - - -

MADAM SPEAKER: Please continue.

MR HUMPHRIES: Thank you, Madam Speaker. The fact of life is that there was ambiguous legal advice - - -

Mr Berry: Madam Speaker, I raise a point of order. Even if he is supporting my particular position, and I suspect that he is not, I would still rise on this point of order. It is an abuse of the standing orders to debate the issue by way of this particular standing order. He had the opportunity to raise these points during the course of the debate and he failed to do it. He is attempting to do it now.

Mr Kaine: You do not know what he is going to say now.

Mr Berry: I heard the first few sentences. I know exactly, because that is what he said he would do.

Mr Kaine: You heard the first 10 words.

Mr Berry: That is all you have to hear.

MR HUMPHRIES: What is your ruling, Madam Speaker?

MADAM SPEAKER: Perhaps if you skip that beginning and come straight to the point, Mr Humphries, we can continue. Please continue with a personal explanation. That means your viewpoint of something that was perhaps misunderstood.

MR HUMPHRIES: Madam Speaker, my statement was always going to be my personal viewpoint along with that line and I will not skip the beginning. Am I required to skip the beginning?

MADAM SPEAKER: Mr Humphries, we have heard it twice. Perhaps you could just come to the third sentence.

MR HUMPHRIES: All right. The fact of life is, Madam Speaker, that this document clearly shows that, as Minister for Health, I had received advice from my department that indicated that there were varying legal interpretations of the situation with respect to the law.

MADAM SPEAKER: That is an argument, Mr Humphries; that is the problem. Will you come to your viewpoint on that; how you were either misrepresented or somehow misunderstood when that was quoted. That is the point of a personal explanation. Would you please proceed with a personal explanation.

MR HUMPHRIES: Madam Speaker, I think I am entitled to utter more than one sentence before you judge on that.

MADAM SPEAKER: Please continue.

MR HUMPHRIES: If you are not going to rule in my favour - - -

MADAM SPEAKER: Please continue.

MR HUMPHRIES: Fine; thank you. Madam Speaker, the suggestion has been made, by Mr Wood particularly, that in some way I acted improperly.

Mr Wood: No; I just said that you did not do anything.

MR HUMPHRIES: Madam Speaker!

Mr Berry: It is an issue of debate, Madam Speaker. He cannot debate the issue that was raised by Mr Wood. He has had his turn. If he wants to raise it as a personal explanation after debate, that is quite appropriate and I would welcome it. But he cannot - - -

MR HUMPHRIES: I have been given leave to do it now.

Mr Berry: Well, I just raised a point of order. I am testing that leave.

Mr Kaine: Are you challenging the Speaker's ruling?

Mr Berry: It is just a point of order.

Mr Kaine: Are you dissenting from the Speaker's ruling?

MADAM SPEAKER: There is no challenge to the Speaker's ruling. Mr Berry is quite rightly pointing out that we cannot re-enter the debate. Mr Humphries understands that. Mr Humphries, it is a personal explanation - to explain how you were misrepresented. You are not to re-present any argument, Mr Humphries, but simply to point out how you were personally misrepresented. I will give you one last chance.

MR HUMPHRIES: Are you suggesting, Madam Speaker, that I have not been doing that?

MADAM SPEAKER: Yes, Mr Humphries, I have already ruled that you were presenting an argument and I asked you to skip it. Now, would you come to the personal explanation.

MR HUMPHRIES: Well, I clearly cannot, Madam Speaker, if you are going to rule in that fashion. I am afraid I cannot.

MRS CARNELL (4.53): I think it is important to start by going over where we have been. We all know that in 1983 - we certainly all know now - the Public Health (Infectious and Notifiable Diseases) Regulations listed AIDS as a notifiable disease. It has been quoted on a number of occasions that subregulation 3(3) indicates that, where an organism is present, then a person is deemed to have that particular infectious or notifiable disease. We also know that in 1985 a legal opinion was put forward which indicated that both HIV and AIDS were notifiable. We know that another legal advice or legal opinion was forthcoming on 18 September 1991. That is the one that Dr Proudfoot has had much trouble in getting. It was an opinion from Mr Bayliss - the advice of 18 September 1991.

We then know, and I think this is the area that has been missed, that in June this year new regulations were issued through the Public Health (Infectious and Notifiable Diseases) Regulations, after the 1991 Bayliss opinion, which went to quite great lengths to change the regulations. In June this year those changes did not address the AIDS/HIV issue. Why? At that stage Mr Berry had another legal opinion. He supposedly had a legal opinion which clarified the very appropriate issues that Mr Connolly brought up - the changes in the way things were looked at, the change in the way that we look at AIDS and HIV. In June this year, as I said, new regulations were issued which substantially changed the conditions requiring verification in various areas of the legislation. They changed the diseases and the conditions which were notifiable and infectious, but that particular AIDS/HIV issue was not addressed.

After that, on Wednesday, 17 June, in response to a question from me, Mr Berry said in the house that HIV notification was "voluntary, in coded form". He also said, "HIV will continue to be notified differently from other infectious diseases because we are not going to drive HIV sufferers underground". So, on 17 June he said that HIV notification was voluntary, in coded form, and he went on to say, "HIV will continue" - I stress the word "continue" - "to be notified differently from other infectious diseases", and so on. Remember that the Bayliss opinion was given on 18 September 1991. There could have been other opinions in between, but the one in question was a number of months earlier.

Then there were quite a number of questions in the house, as everyone will remember. In answer to a dorothy dixer - so, you assume that Mr Berry got it right this time - from Mr Lamont on Thursday, 13 August, after the issue had been canvassed at length in the press and also in the house, Mr Berry said:

> The regulations, as they stand, require notification in accordance with the form in Schedule 1, and this includes full name and address.

So, from 17 June to 13 August a dramatic "Saul on the road to Damascus" conversion occurred, or so you would think; but he went on to say:

> However, a policy decision has been made to bring the ACT into line with the practice in New South Wales and Victoria -

and so on. Obviously, there was a big change of heart. In his speech notes that he tabled on that day he went on to say:

> I would now like to inform the house that I am advised that ACT Health has never notified medical practitioners, pathologists and the hospitals that they no longer need to give name and address when notifying AIDS.

Everything we have heard today suggests that they actually had done that. I think that is really important. Mr Connolly and everyone here have suggested that there actually had been a legal opinion that they had acted on. Mr Berry then, on 13 August, seems to indicate that that had never happened. At the Estimates Committee, on 25 September, Dr Bob Scott said:

> Various legal opinions have been obtained and the latest legal opinion that we have from the Government Solicitor is that AIDS means infection with HIV at all stages.

So, Bob Scott indicated on 25 September that there is no doubt any more - everything is signed, sealed and delivered; we know exactly where we stand now. Then the annual report came out. It came out the week after Dr Scott said this. What does the annual report say? The annual report suggests that HIV is notifiable on a voluntary basis. Again we appear to be all over the place in this whole situation.

You will also be aware that every single activity report in this area for the whole 12-month period, up to June anyway, indicated that HIV was notifiable on a voluntary basis. Remember that Mr Berry, on 13 August, said that this never happened; it did not happen. People in ACT Health never notified medical practitioners, pathologists or anybody else on this issue. So, it would appear that Mr Berry had a legal advice, and one would have to suggest that it was more than likely the legal advice of 18 September 1991, which indicated quite clearly, as Dr Scott said in the Estimates Committee, that HIV was notifiable at all stages. At the very least, one would have to say that Mr Berry misled the house, or came very close to misleading the house.

Mr Berry: You cannot even say that, Kate.

MRS CARNELL: Okay, I will requote. I will withdraw that and requote what Mr Berry said on 17 June. He said that HIV notification was made voluntary, in coded form, and that HIV would continue to be notified differently from other diseases. At the very least, there seems to be substantially different advice given by Mr Berry in all sorts of places - here, in his annual report, and in his activity reports that are distributed very widely. I think general medical practitioners would have every right to suggest that information that is in the annual report is correct. The annual report, remember, was issued a week after Dr Scott made his comments at the Estimates Committee.

At the very least, Mr Berry was acutely aware of the situation that existed. He was acutely aware when he made the initial changes to the regulations in June, when he did not address the AIDS/HIV issue. He took quite a number of months to address the issue. At the very least, we had a situation, probably for 12 months but at least for six months, where the Minister was acutely aware of what the legislation said but had not got around to changing it.

Mr Wood: Where did Mr Humphries stand? You did not comment on that.

Mrs Carnell: I have no - - -

Mr Wood: Mr De Domenico might comment on Mr Humphries's story.

MR DE DOMENICO (5.01): Perhaps I will start off by commenting, through you, Madam Speaker, on that very point. Mr Wood stood up and he said, "But listen; here is a piece of paper dated April 1991 and you, Mr Humphries, from April until June 1991, when our Government took over, did not do anything in two months or three months".

Mr Wood: And 15 months before that.

MR DE DOMENICO: I am talking about the piece of paper that you alluded to, Mr Wood. You stood up and waxed lyrical about how strong your arguments were. Madam Speaker, could you please afford me the same protection that we gave Mr Wood?

MADAM SPEAKER: I am sorry; I was distracted.

MR DE DOMENICO: Mr Wood, it is a fact that Mr Berry, the Minister for Health, had a legal opinion dated 18 September 1991. There is no doubt about that. When did Mr Berry take any action? Madam Speaker, Mr Berry took action 14 months later, in November 1992. So, for you, Mr Wood, with respect - - -

Mr Wood: You are putting Berry and Humphries in the same boat. That is what Mr De Domenico is doing.

MADAM SPEAKER: Mr Wood, order, please! Mr De Domenico has the floor.

MR DE DOMENICO: Thank you, Madam Speaker.

Mr Lamont: I rise to a point of order. Mr De Domenico seems to insist that the procedures of the chamber be followed. Maybe he would care to address the Chair in his remarks.

Mr Kaine: You are very sensitive about people addressing the Chair, aren't you? You are up and down like a yoyo.

Mr Lamont: It is what is supposed to happen. If you want quietness, address the Chair.

Mr Wood: I work on the basis that if someone sits down I am entitled to stand up. That is my background. If Mr De Domenico sits down I will stand up.

MR DE DOMENICO: Would you please name him, Madam Speaker?

MADAM SPEAKER: I would like to warn him a little first, Mr De Domenico. You are so warned, Mr Wood.

MR DE DOMENICO: Let me start again, Madam Speaker. Mr Wood stood up before and said that Mr Humphries had this enormous amount of time, about eight weeks, whilst on one hand getting advice from his department that he was not in a position to do anything on the floor of this house. Quite candidly, Mr Berry, on the other hand, this Minister who is such a reformist Minister, took 14 months before he did something. So, Mr Wood's argument has just been blown out of the water, I suggest.

Madam Speaker, may I also now attempt to revert this argument to where it belongs? There are two important issues that go to the very heart of what Mr Stevenson's motion is all about. The first one is whether Mr Berry failed to uphold the law as it existed, and as he knew it existed, as it then was, notwithstanding the seeming confusion. As the law existed at the time, did Mr Berry uphold it? That is question No. 1. Question No. 2 is: Did Mr Berry mislead the house? Notwithstanding what views individual members of this Assembly might have on the HIV issue, it has nothing to do, I suggest, with the matter before us.

Mr Lamont: You are not filibustering, are you, Mr De Domenico?

MR DE DOMENICO: No, I am not, Mr Lamont. I am not filibustering; I am bringing the debate back to reality. It is very good for Mr Connolly, Ms Follett and Mr Wood to stand up and attempt to protect Mr Berry. That is fine. But let us get back to the real issue: Did Mr Berry knowingly break the law? Secondly, did he mislead the house? I am suggesting that Mr Stevenson presented a very well documented case. We know that Dr Proudfoot is not a lawyer. Ms Follett stood up and told us that he is not a lawyer. But Mr Berry knows all about lawyers because he has advice, and it took him, once again, 14 months to act on that advice. As Mr Humphries quite ably said, if the Chief Minister is so concerned about what is going on, why do not she and the Government allow any member on this side of the house - probably it would be better if it were Mr Humphries, a lawyer, or Mr Moore, or jointly - to have a look at that legal advice, or the package of legal advice, because Mr Connolly mentioned the word "package"? Let us have a look at that, because it took the Minister 14 months before he did anything about it.

I turn to another argument: Did Mr Berry mislead the house? The annual report has one connotation of the way things were. Dr Scott said something different to the Estimates Committee. Mr Berry, in the house, said something different. The activity reports said something different again. One can rightfully ask, "Which one was right? Which interpretation was the right one?".

It is all well and good for people to say that Mr Stevenson came into this house with a litany and a paper trail. Nothing I have heard from members on the opposite side of this house has convinced me that what Mr Stevenson said is either incorrect or not true. Mr Berry had his opportunity to say directly what he thought, but he did not say anything at all about the issue at hand. He talked about the HIV issue, not about whether he misled this house and whether he was breaking the law. Mr Connolly, I put to you, did the same thing. We have yet to hear arguments that will convince us on this side of the house that what Mr Stevenson said is not the way things happened.

Let me finish, Madam Speaker, by saying this. Whether we disagree or agree on the HIV issue, the two issues here are: Firstly, did Mr Berry knowingly and willingly - knowing what the law was at that time and before it was changed - break that law? That is question No. 1. Question No. 2 is: Did Mr Berry mislead this house? I put to you, Madam Speaker, and to all the other members, that nothing that has been said so far by members on the other side of the house indicates that those two things did not happen.

MR MOORE (5.08): Madam Speaker, the issue primarily, it seems to me, is about the law. But we cannot take the issue out of its context. It is a very important context - the spread of a disease that has gone rampant in a number of places. New York is a prime example. It is quite clear that a range of advice has been proffered to Ministers. We have seen advice proffered to Mr Humphries, when he was Minister, as well as a range of advice that has been proffered to Mr Berry.

I guess the question that comes through all this is an ambiguity. Should we be here attempting to judge how somebody has resolved an ambiguity in the law? I recall the schools case. When I was opposed to Mr Humphries's closure of schools we sought to get legal advice as to whether or not there was some

legal means by which we could prevent the closure of some schools. There was a range of legal advice in that circumstance. We had a choice in resolving that. One choice was to go to court and get the final statement from a judge. The risk there is that you pay the costs of the group that you are opposing. The other choice in that case, which we adopted, was to get advice from a silk. That is one way to attempt to resolve the problem.

I am given to understand from Mr Connolly that in this case no legal advice was ever gained from a QC or a senior legal professional. Therefore, I believe that the range of legal advice that we are dealing with loses some strength. The statement that Mrs Carnell quoted from Dr Scott goes something like this: The latest advice on AIDS/HIV means that infection with HIV at all stages is notifiable. It was simply the latest in a range of advice. Who was to know that there was not going to be a change in the next little while? The Minister, therefore, had to respond to that. Indeed, Mr Humphries, with hindsight, might say, "Well, perhaps I should have responded". It is very easy to do things with hindsight. If Mr Berry were to look back, with hindsight, he might say that this issue ought to have been resolved much more quickly. With my hindsight, looking back at how both Ministers operated, I would say that it should have been resolved more quickly.

Not being provided with the legal advice makes it much more difficult. I understand that the problem there is that another principle is involved - the relationship between a client and a solicitor and whether that applies to government. Is the Minister prepared to undermine it by testing that legal advice? Is it necessary to undermine it in determining whether or not the Minister has acted properly or improperly? It is important not to lose sight of the context of the words "properly" and "improperly". The context of it is the Minister trying his best to resolve a problem that has the potential to blow out in terms of population health. As I say, with hindsight, we can probably all do better, but a decision made in that light makes the decision that much more difficult.

Mrs Carnell: That is why you would get a silk's advice.

MR MOORE: Mrs Carnell indicates that that is why you get the advice of a silk. It would seem to me, with hindsight, that that is exactly what Mr Humphries should have done. That is exactly what Mr Berry should have done. The other choice, which is actually cheaper, is to set about changing the regulations. The evidence that I see presented to me shows that Mr Berry did set about changing the regulations. I would say, with hindsight, that he did so much too slowly. Perhaps that is how Mr Berry does everything. We would also say that he does some things too quickly, especially when he tries to put Bills through here too quickly. He is too slow in the lead-up to the Assembly and too quick once it gets into the Assembly. I think it is important to distinguish this.

If there is a clear breach of the law with no ambiguity, and the Minister recognises that, then he must act. There is no question about that. From the letters that I have received over the last four or five years from Dr Proudfoot, I think that that is what he would have expected. It seems to me that he was looking for the single piece of legal advice that happened to take his perspective. Perhaps it is the one

that Dr Scott referred to at the Estimates Committee, that one particular piece of legal advice. Unfortunately, it seems to me, from his letters, that Dr Proudfoot, in following this issue from his own perspective, has become more and more obsessed with this particular issue. He had raised an issue, quite rightly, and, with hindsight, it probably should have been dealt with a little more quickly. But whether that brings the issue to a vote on whether this Minister is competent to remain a Minister and whether he is competent to remain as a member of this Assembly is another question.

Where there is doubt, the Minister has a responsibility to clarify the particular piece of legislation. The reality is that he has brought it to this Assembly and this Assembly has clarified that issue, although not to everybody's satisfaction; but that is the way the parliament operates. It seems to me, therefore, looking back with hindsight, that for Mr Humphries to support this motion would involve a certain measure of - the word "hypocrisy" is too strong - - -

Mr Wood: Compromise.

MR MOORE: "Compromise" is a better word. It seems to me that the same things that apply here to Mr Berry apply to Mr Humphries, although not in as great strength because there has been a build-up of information over time. There certainly is evidence that the question was around during Mr Humphries's time. Mrs Carnell and I actually discussed some weeks ago whether it was appropriate to move a motion of censure of the Minister on this issue.

Mr Connolly: You get together and plot against us?

MR MOORE: Yes, we get together quite often on such things and weigh them up. It was not her party decision; it was prior to that, in order to assess, I presume, whether she was going to take it to her party. We discussed whether there was enough in this issue to suggest that the Minister had misled the house and had not been above board, and the sorts of things that have been raised by Mr Stevenson today. Our joint conclusion was no; that there was really not enough in it. There was enough to say that Mr Berry had not acted quickly enough and that perhaps he should be slapped over the fingers for not acting quickly enough in getting something to the Assembly as opposed to getting it through the Assembly. We determined at that time that we did not think there was enough in it to raise a matter of censure - not a matter of no confidence in a Minister, but a matter of censure, which I perceive as a far less serious motion.

Having listened to the arguments today, Madam Speaker, I feel that we cannot lose sight of the fact that this is driven quite strongly by somebody with a specific view about HIV - I refer to Dr Proudfoot, who has written to us over the last four or five years; to all members, I presume - and who has a very strong view about that role. I sense a certain homophobia there. A lot of the arguments that are presented by Mr Stevenson have come through that source, although he has used other sources as well. For those reasons, Madam Speaker, it seems to me that the issue is not clear cut enough for us to make a decision to say to this Minister, "No, you are not competent enough to be a Minister; you are not even competent enough to be a member of this Assembly".

MS SZUTY (5.17): I have been listening to the debate this afternoon fairly carefully and I see the issue very much as one of conflicting and varying legal advice. We had the debate on the health ramifications of the disclosure of HIV and AIDS notification a week or so ago when Mrs Carnell raised her disallowance motion in this chamber.

I take Mr Connolly's point that at the moment there is an appeal to the Supreme Court in progress, with the Government appealing an AAT decision which it believes was wrong in law, and it discusses the question of what is legal professional privilege. Mr Humphries has said in this Assembly that some disclosure of that legal advice which is currently before the Supreme Court may be possible to this Assembly. I think it would be helpful to members' understanding of the dates, the times and the process in regard to this issue if some disclosure of that legal advice were able to be provided to members, even if it were on a confidential basis.

In conclusion, briefly, Madam Speaker, on the evidence that has been presented today in terms of a no-confidence motion proposed against Mr Berry, I am unable to support it.

MR HUMPHRIES: Madam Speaker, I seek leave to make a statement under standing order - - -

Mr Berry: If we are going to go through this process again, I hope that Mr Humphries is reminded that his contribution ought not be by way of debate.

MADAM SPEAKER: Thank you, Mr Berry. Yes, you have my leave, Mr Humphries. Please proceed.

MR HUMPHRIES: Madam Speaker, I make a personal explanation under standing order 46. It was suggested by Mr Wood in the debate that I - - -

Mr Wood: Here we go again. Third time.

MADAM SPEAKER: Order, please! Mr Humphries has the floor.

MR HUMPHRIES: Thank you, Madam Speaker. He suggested that I took no action on advice which I received as Minister in 1991. That advice has been tabled by Ms Follett and it says, for example, that legal opinion on the interpretation of the regulations - that is, of course, the notification regulations - varies. Madam Speaker, the advice suggested that there was an ambiguity there but did propose that certain action flow from that ambiguous situation with respect to the law. I draw to the attention of the Assembly two ways in which that was progressed by me as Minister and by my department. First of all - - -

Mr Berry: Madam Speaker, I raise a point of order. Standing order 46 talks about leave being granted by the Chair for a member to explain matters of a personal nature, and that is fair enough. Then there are the words, "although there is no question before the Assembly". There is a question before the Assembly.

MR HUMPHRIES: This is notwithstanding that fact, stupid!

MADAM SPEAKER: Order, please!

MR HUMPHRIES: This is notwithstanding the fact that there is no question before the Chair; in other words, with or without a question before the Chair. He is just filibustering, Madam Speaker.

Mr Berry: It strikes me that we have another attempt by Mr Humphries to debate issues which he has had a turn at. He should have just copped his turn and then sat down.

MADAM SPEAKER: Mr Berry, I believe that Mr Humphries is in order. Please continue, Mr Humphries.

MR HUMPHRIES: Madam Speaker, you have ruled several times - - -

MADAM SPEAKER: Just proceed, Mr Humphries; that is fine.

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

MADAM SPEAKER: Yes, Mr Humphries.

Mr Humphries: You have ruled several times that I am entitled to make a statement, and several times Mr Berry has raised the same point of order. I would ask that, if he makes the same point of order again, contrary to your ruling, you name him.

MADAM SPEAKER: Well, I may just warn him first, Mr Humphries, but thank you for the advice. Please continue.

MR HUMPHRIES: Thank you. As I suggested before, legal opinion indicated in that advice given to me - - -

Mr Berry: It is outrageous. It is debating the issue.

Mr De Domenico: Madam Speaker, I raise a point of order. I think Mr Berry's interjection that it is outrageous to debate the issue is a reflection on your ruling as the Chair. I ask Mr Berry to withdraw that remark.

MADAM SPEAKER: Mr De Domenico, if indeed Mr Humphries was debating the issue, it would be outrageous; so on that basis Mr Berry is entitled to make that interjection. However - - -

MR HUMPHRIES: Was I debating the issue, Madam Speaker?

MADAM SPEAKER: You were not debating the issue. Would you please proceed, and I will ask Mr Berry to make no further interjections. Please proceed, Mr Humphries.

MR HUMPHRIES: Madam Speaker, the legal opinion which the advice of 5 April referred to clearly indicated that there was doubt about the question of the regulations. As a result, two actions flowed from that, Madam Speaker. First of all, as members can clearly see from the bottom of the document, rather than just "Noted", as is an option for documents of this kind, I indicated "Please discuss". In other words, I wished to pursue further with my department the questions raised in this matter. My recollection is that those discussions did take place and further action flowed from those discussions.

The second issue, Madam Speaker, is the last statement in the minute, which reads:

> It is the intention of the Board -

that is the Board of Health -

> to seek urgent advice from the Government Law Office on amendments to the legislation which would be brought forward through yourself.

That is, through me. Clearly, Madam Speaker, we have here a proposal by the department to process a solution to this problem promptly. I draw attention to the words "urgent advice". The department was to seek urgent advice to deal with this problem. That was the basis on which I took action, through my department, to deal with that problem. If that was not prompt action, if I was responsible for not having put anything up within the two months remaining to me as Minister, then how reprehensible is it for this Minister who has been - - -

Mr Connolly: At this point he is now debating the issue.

MADAM SPEAKER: Now you are debating the issue, Mr Humphries. That is quite correct, Mr Connolly.

MR HUMPHRIES: Thank you, Madam Speaker.

MR LAMONT (5.24): Madam Speaker, I have just a very brief addition to the debate this afternoon before Mr Stevenson gives his address in reply. This is directed at the Liberal Opposition. This is what they have to consider. If they are fair dinkum in supporting one letter of Dennis Stevenson's motion, they should take a quick adjournment to their party room and return to this chamber not only with the resignation - - -

Mr Kaine: I raise a point of order, Madam Speaker. I do not think Mr Lamont is capable or qualified to give me advice on what I will do in my party room. He is out of order.

MADAM SPEAKER: I think he is permitted to talk about that in his speech. Please continue, Mr Lamont.

MR LAMONT: They should return to this chamber with Mr Humphries's resignation and, indeed, that of the then Chief Minister. That is the test as to whether or not the other side of this house has jumped on a political band wagon. That is the test as to whether or not the Opposition, the Liberal party, have jumped on a political band wagon presented by Mr Stevenson, or whether they seriously entertain the questions raised in Mr Stevenson's motion. Madam Speaker, they are not prepared to do that because, as I say, it is quite simply political posturing. It is no more.

We heard Mr Moore say earlier on that their own health spokesperson, when considering this matter a couple of weeks ago, did not consider it sufficient even for a censure motion to be raised here. This afternoon they are supporting something which is, by several degrees, a more serious course of action. I would suggest, Madam Speaker, that political opportunism at its worst has been demonstrated by those opposite.

I do not point the finger at Mr Stevenson. I do not particularly take issue with the fact that Mr Stevenson wishes to raise a matter such as this, because he is free to do so, as is anybody else; but I had had a higher regard for the way in which the Opposition would deal with an issue such as this. I, along with everybody else in this community, will be disappointed at their actions this afternoon.

MR STEVENSON (5.27), in reply: The Australian Capital Territory Public Health (Infectious and Notifiable Diseases) Regulations state:

> "Notifiable Disease" means
>
> (a) Acquired Immune Deficiency Syndrome; ...

Subregulation 4(1) states:

> A medical practitioner -
>
> (a) who has reason to believe that a person professionally attended by him is, or may be, suffering from an infectious disease or a notifiable disease ... shall, forthwith, furnish to the Medical Officer of Health a notification in accordance with the form in Schedule 1.

Schedule 1 states:

> Notification of Infectious or Notifiable Disease
>
> I hereby certify that the person whose name and address appears hereunder is suspected by me to be suffering from -

There is space for the particular notifiable disease, and the case we talk about is AIDS.

On 15 January 1985 the then Medical Officer of Health, Dr Sheena MacLeod, expressed concern that she was no longer receiving notification of positive test results. On 23 December 1985 Mr J. O'Halloran, director of the legal branch of the ACT Health Department, sent a minute that I have referred to earlier to the Health Department chairman, Mr Bissett, via his superiors.

Ms Follett: I raise a point of order, Madam Speaker. I refer to the relevance of Mr Stevenson's remarks. His motion is directed exclusively to the actions of the Minister, Mr Berry. Mr Berry, quite clearly, was not the Minister in 1983 or 1985.

MADAM SPEAKER: Mr Stevenson, I wish you to consider that and to focus your remarks on the motion in hand.

MR STEVENSON: It is highly relevant to what I say. I understand that everybody in this room would clearly see that.

MADAM SPEAKER: I am afraid that that is not the case. Would you make sure that the connection between what you are saying and your motion is made more clearly, Mr Stevenson.

MR STEVENSON: Madam Speaker, I initially asked four questions. Did the law in the ACT require the reporting of HIV/AIDS? Was Wayne Berry responsible, as Health Minister, for upholding this law? Was Wayne Berry aware of this law, or should he have been? Did Wayne Berry fail to uphold this law? I added a fifth question: Did Wayne Berry mislead this house? The law was clearly stated by the director of the legal branch of the ACT Health Department in 1985. He stated:

> I confirm my recent verbal advice to you that your press statement that only type "A" AIDS is notifiable in the ACT is not supported by the regulations.

Ms Follett: I take a point of order, Madam Speaker. I refer again to the relevance of Mr Stevenson's remarks. He is quoting from the 1985 document. I had asked him to address his own motion.

MADAM SPEAKER: Mr Stevenson, that was the point of the point of order before. Even if you are talking about the law, you have to refer to the law that applied when Mr Berry was Minister, and make that connection.

MR STEVENSON: Madam Speaker, the law has not been changed.

Ms Follett: Yes, it has.

MR STEVENSON: The law had not been changed.

Mr Connolly: And he was Minister at the same time?

Mr De Domenico: And you are a dill, because you do not know what you are on about.

MADAM SPEAKER: Order, please!

Mr Connolly: Is an interjection, "You are a dill and you do not know what you are on about" appropriate in a parliamentary context?

Mr De Domenico: Well, you are. That is right, so sit down.

MADAM SPEAKER: Mr De Domenico, please! I think you are pushing the limits of parliamentary language a little. Mr Stevenson, would you focus your remarks?

MR STEVENSON: On 2 December 1991 Mr Berry wrote to Dr Proudfoot and acknowledged receiving the doctor's letters. He was well aware of the doctor's statements on the matter. Mr Berry stated:

> The intention in the meantime is to amend the Regulations to make all stages of HIV notifiable in coded form ...

The clear assumption to draw from that is that they needed to be amended to bring that about. Of course, that was the case because priorly it had to be notified in full.

Mr Connolly: That is what you say.

MR STEVENSON: It is not only what I say. It was also presented in the reasons for decision in the AAT case C92/17, the head of which was Mr Beddoe, who is a lawyer. It was also clear, as I said, to the Health Department's own legal director, Mr O'Halloran, and it was also certainly clear to Dr Proudfoot. Madam Speaker, in May this year discussion paper No. 1 was issued under the authority of Margaret Norington, director of services policy of the ACT Board of Health, and she stated:

> Under the Regulations, Medical Practitioners, hospitals and pathologists are required -

I repeat "are required" -

> to report cases of Acquired Immune Deficiency Syndrome to the Medical Officer of Health ... by full name, giving details of address, date of birth -

and so on. She went on to state:

> HIV infection has not been notified except in coded form for research and statistical purposes.

On 17 June this year Mr Berry said:

> There is an agreement between all State governments on the way that HIV is notified. It is notified in a coded form ...

That is not correct. It misled this house. In South Australia and Western Australia they require full detailed reporting, and until recently, of course, so did Queensland and the ACT. Mr Berry misled this Assembly when he claimed otherwise. He knew that the department was failing to require the legal mandatory full reporting. Mr Berry said:

> ... HIV will continue to be notified differently from other infectious diseases because we are not going to drive HIV sufferers underground.

That is his opinion. It is clear that Mr Berry knew what the law was. It has been clearly stated that there is no distinction within the law on AIDS. In the law, in the regulations, AIDS is required to be reported, and Mr Berry knew that full well. He showed this when he said, as recorded in *Hansard* on 13 August this year:

> However, a policy decision has been made to bring the ACT into line with the practice in New South Wales and Victoria ...

In other words, "It is not in line with that at the moment. It requires amendment of the regulations". He then amended the regulations because the regulations did not allow that priorly. On 13 August he went on to say in his tabled notes:

> I would now like to inform the house that I am advised that ACT Health has never notified medical practitioners, pathologists and the hospitals that they no longer need to give name and address when notifying AIDS.

Here he suggests that they should - - -

Mr Moore: I raise a point of order, Madam Speaker, under standing order 62. This is tedious repetition.

MADAM SPEAKER: I would ask you to take note of that, Mr Stevenson. Please continue.

MR STEVENSON: Here he suggests that they should give name and address. Mr Moore talks about repetition. The argument was fully presented in my initial 16-page statement. The members opposite have not refuted one point. Mr Berry says that this is clearly a policy decision that has been in place for some time. That is not true. It is a matter of the law. He said, "I am not going to argue about the legal position". Indeed, he cannot argue about the legal position, and he knows it. He said, "I administered the law in the same way as it has been administered in the past". He did not. He said, "If the Assembly wishes to give me a vote of no confidence in this matter, let them do so". He well understands the possibility of that. He said that he has clearly stated the Government's position in regard to the reporting of AIDS. What on earth has that to do with the law? I seek, because of the interruptions of other members, an extension of time to summate. *(Extension of time not granted)* I move:

> That so much of the standing orders be suspended as would prevent me from continuing.

MADAM SPEAKER: Mr Stevenson, you do not need to do that. You simply need to move a motion for an extension of time, and that will then be put before the Assembly.

MR STEVENSON: I move:

> That Mr Stevenson be granted an extension of time of five minutes.

Question put:

> That Mr Stevenson be granted an extension of time of five minutes.

The Assembly voted -

AYES, 8	*NOES, 9*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Stevenson	Mr Lamont
Ms Szuty	Ms McRae
Mr Westende	Mr Moore
	Mr Wood

Question so resolved in the negative.

Mr Stevenson: Madam Speaker, I seek leave to give notice that, on the next day of sitting, I will move a motion of no confidence in the Chief Minister.

MADAM SPEAKER: Mr Stevenson, you do not have to do that. You just hand in the motion as in ordinary circumstances.

Mr Stevenson: I understand; I just put it in.

Question put:

> That the motion of want of confidence in the Minister for Health (**Mr Stevenson's**) be agreed to.

The Assembly voted -

AYES, 7	*NOES, 10*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Stevenson	Mr Lamont
Mr Westende	Ms McRae
	Mr Moore
	Ms Szuty
	Mr Wood

Question so resolved in the negative.

PAPER

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

> Head of Administration - report for 1991-92.

CONSERVATION, HERITAGE AND ENVIRONMENT - STANDING COMMITTEE
Report on Fuelwood Heating - Government Response

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (5.43): Madam Speaker, for the information of members, I present the Government's response to report No. 4 of the First Assembly's Standing Committee on Conservation, Heritage and Environment entitled *Fuelwood Heating in the ACT* and move:

> That the Assembly takes note of the paper.

I am pleased to table the Government's response to report No. 4 of the Standing Committee on Conservation, Heritage and Environment. This report was tabled in the previous Assembly in September 1991. The report contains 26 recommendations, and the Government's response gives its agreement or agreement in principle to a majority of those recommendations. We believe that it was a good report.

Studies referred to in the report show that solid fuel emissions provide a major proportion of the particular pollution prevalent over Canberra in the winter months. This brown haze has been the subject of many complaints from Canberra residents. Air pollution from wood heaters not only is a health hazard but also detracts from Canberra as an attractive, clean capital city. There is also concern within the community about the depletion of native hardwood trees and the clearing of forests and road verges.

The Government is concerned about the possible deleterious effects of solid fuel appliances on Canberra's air quality and has already implemented some of the actions recommended in the standing committee report. The Government is committed to the maintenance of continuous air quality monitoring throughout the ACT and has provided funding for a three-year program to upgrade the monitoring network. Monitoring results for 1991 have been published, and it is intended that they be published quarterly. Government agencies are developing a pollution index for the ACT which will be made available to the media on a daily basis. The ACT Government will formally adopt the National Health and Medical Research Council guidelines regarding ambient levels of total suspended particulates.

As part of the review of environment protection legislation, the Government is proposing to adopt the emission standards for new domestic solid fuel appliances contained in Australian Standard AS4013 1992. While it is not practicable to test and replace existing installations, a public education program on clean burning practices will be considered as a means of reducing smoke emissions from both new and existing appliances. Correct operation of solid fuel appliances is essential for controlling emissions of total suspended particulates and for compliance with emission standards. The Government has already funded brochures on correct burning practices and operation of solid fuel appliances. In addition, it has obtained the cooperation of fuel merchants and retailers in promoting good practices to their customers.

The planning of future ACT housing developments to ensure appropriate solar orientation for passive heating is directed at reducing the requirement for non-renewable energy sources. The Government has recently released energy guidelines which identify procedures for maximising the use of passive solar energy in the planning of subdivisions and siting of dwellings. In line with reducing energy requirements, the Government has requested that the ACT Building Control raise with the Australian Uniform Building Regulation Coordinating Council the need to develop uniform standards for thermal insulation of residential premises. Building Control will also undertake a cost-benefit study, and, based on the analysis and discussions with industry, the Government will decide whether insulation should be mandatory at a variety of levels. We have already made it mandatory in wall cavities. The Government is particularly concerned to ensure that homes are more energy efficient. These initiatives not only benefit the well-being of the ACT community but contribute to an overall reduction of greenhouse gas emissions and are consistent with the principles of ecologically sustainable development.

The proposed response does not commit the Government to any expenditure above that already committed in the 1992-93 budget. Some recommendations agreed to in principle will be considered in the context of the 1993-94 budget.

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

DEPARTMENT OF URBAN SERVICES - REPORT FOR 1991-92
Paper and Ministerial Statement

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services): Madam Speaker, for the information of members, I present the revised annual report of the Department of Urban Services and seek leave to make a short statement.

Leave granted.

MR CONNOLLY: Madam Speaker, I present the revised edition of the Department of Urban Services annual report for 1991-92, including the financial statements and Auditor-General's report, and the financial statements and audit report for ACTION's ACT Transport Trust Account. The initial version of the report which was tabled in the Assembly on 22 October 1992 contained draft financial statements for the department. These statements and those for ACTION were subject to auditing by the Auditor-General. Audit certificates have since been issued and the final statements are included in this annual report.

The audit of ACTION's financial statements resulted in a number of accounting changes to the final result for 1991-92. The increased deficit at page 16 reflects the adjustments to previous years in the accounting treatment of the depreciation of buses in line with accounting standard AAS10, the revised accounting treatment of bus refurbishment costs and the write-back of occupational superannuation liability. The 1991-92 accounts also include a number of new costs as a result of the transfer of the personnel unit from the Corporate Services Bureau, amounting to $0.36m, an increase in the level of ACT petroleum franchise payments of $0.56m and payment for the first time of the fringe benefits tax of $50,000 which was previously paid centrally.

The accounting adjustments which are not funded increased the 1991-92 ACTION deficit from the initially reported $74.492m to $76.184m. The actual government contribution to ACTION, however, remains unchanged at $46.16m. In real terms, and taking out the first-time costs, this is a reduction of $1.63m or 3.5 per cent when compared to 1990-91. Adding the savings in the cost of school bus services worth $0.3m in 1991-92, the total saving achieved in 1991-92 is $1.93m.

PLANNING, DEVELOPMENT AND INFRASTRUCTURE - STANDING COMMITTEE
Report on Casino Premium - Government Response

MS FOLLETT (Chief Minister and Treasurer) (5.51): Madam Speaker, I ask for leave of the Assembly to make a ministerial statement on the Government's response to the report of the Standing Committee on Planning, Development and Infrastructure on the possible use of the $19m casino premium.

Leave granted.

MS FOLLETT: Madam Speaker, I present the Government's response to the report of the Standing Committee on Planning, Development and Infrastructure on the possible use of the $19m casino premium. This response conveys the Government's decision on the use of the premium and prepares the way for detailed work to be carried out on the proposals to be funded. I believe that the committee's inquiry, encompassing the work of the Select Committee on Cultural Activities and Facilities, has provided the people of Canberra and the Government with a further opportunity to ensure that all current community views have been considered before the premium is allocated. I wish to thank the committee for the work it has done under very tight time constraints and for the excellent report it has provided to the Assembly.

The report makes seven recommendations and suggests the allocation of six amounts for various projects. To reiterate quickly, these are funding for an Aboriginal keeping place or cultural centre, $2.5m; funding for regional cultural activities, $2.75m; essential work to maintain and refurbish the National Exhibition Centre, $1.5m; an equipment grant for the Childers Street community theatre, $0.25m; a major upgrade of the Playhouse theatre, $5m; and funds to provide a cultural and heritage centre in the city centre, $7m.

The Government agrees with the committee's approach in funding a number of proposals rather than allocating the whole $19m to one major project. The Government also accepts each of the allocations recommended by the committee, recognising, however, that detailed work on costings, design and siting will determine the final outcome of some of the proposals.

The Government endorses the location of a cultural and heritage centre in the Civic Square precinct. The allocation of funds of the order recommended will upgrade the Playhouse theatre and the Link. The establishment of a regional art gallery and heritage centre in section 19 will provide a further exciting and readily accessible focus for this city. The extent to which other functions can be accommodated will depend on the detailed design and, of course, the costings.

The Government also agrees with the recommendations made by the committee on the future development of the Childers Street-Kingsley Street area and the Kingston foreshores and on the need to carry out further community consultation on regional cultural facilities, including a reappraisal of the role of schools. Madam Speaker, I again thank the committee for their work in examining and filtering a wide range of views on use of the premium. I move:

> That the Assembly takes note of the papers.

MR LAMONT (5.54): In reading through the Government's response, I note that all of the recommendations of the Planning, Development and Infrastructure Committee have been adopted by the Government - a matter which, speaking on behalf of our Assembly colleagues on the committee, I am sure we are extremely grateful for. The acceptance by the Government of the recommendations of the committee - in particular, but not exclusively, recommendation 6 - is something which, in the way it has been clarified now by the Government, the committee would be extremely grateful for. I thank the Government for its acceptance of the recommendations of the committee.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (5.55): Mr Deputy Speaker, I want briefly to express my congratulations to the Planning, Development and Infrastructure Committee. In the end we have a good result. I am very satisfied with it. The committee has done well. It has drawn on a broad consensus, over a number of years now, on the outcome of the casino premium. I believe that the earlier work, the work of the Cultural Council and the views of the citizens generally on what they want in cultural matters are very well reflected in the committee's report and the Government's decision.

MR DE DOMENICO (5.56): I would like to reiterate the comments made by the committee chairman, Mr Lamont. I am also delighted that the Government has taken on board all the recommendations of the committee. As I said this morning, it is one area that is testimony to the way that people of all political persuasions can come together and make the same decision.

Mr Lamont: Good politics.

MR DE DOMENICO: It is good politics, as Mr Lamont said, and I am happy to endorse the Chief Minister's ministerial statement.

Question resolved in the affirmative.

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

MRS GRASSBY: I present report No. 22 of 1992 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation and I ask for leave to make a brief statement on the report.

Leave granted.

MRS GRASSBY: Report No. 22 contains the committee's comments on two Bills, and I commend the report to the Assembly.

EVIDENCE (CLOSED-CIRCUIT TELEVISION) (AMENDMENT) BILL 1992

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (5.57), by leave: Mr Deputy Speaker, I present the Evidence (Closed-Circuit Television) (Amendment) Bill 1992.

Title read by Clerk.

MR CONNOLLY: I move:

> That this Bill be agreed to in principle.

Members will notice that there is no circulated presentation speech for this Bill. This Bill was prepared at very short notice this morning. Opposition members and independent members indicated to me that they would not be prepared to support the Evidence Bill before the Assembly which covered, amongst other things, the issue of the uncorroborated evidence of persons under the age of 14.

While the Government feels that that is unfortunate, we did not want - nor, indeed, did opposition and independent members - the important provision in that Bill relating to closed-circuit television evidence in the Magistrates Court to lapse because of their unwillingness to debate the other matters.

After some round table discussion this morning, it was felt that the best way to proceed would be for the Government to excise from that Evidence Bill the provision relating to video evidence. The Government has done that in this amending Bill now before the house. The effectual provision of this Bill is the repeal of section 11 of the Evidence (Closed-Circuit Television) (Amendment) Act. That is the provision which has the sunset clause which would mean that the use of video evidence in the Magistrates Court for child witnesses would not be valid after 31 December. The other matters which the Government remains eager to proceed on with all haste are in the other Bill, and members can do with that Bill what their conscience directs. I present an explanatory memorandum which also was prepared at very short notice.

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

PAYROLL TAX (AMENDMENT) BILL (NO. 2) 1992

Debate resumed from 10 December 1992, on motion by **Ms Follett**:

That this Bill be agreed to in principle.

Motion (by **Mr De Domenico**) proposed:

That the debate be now adjourned.

Ms Follett: On Mr De Domenico's motion, Mr Deputy Speaker, which I oppose - - -

MR DEPUTY SPEAKER: It is not open to debate.

Question put:

That the debate be now adjourned.

The Assembly voted -

AYES, 9	*NOES, 8*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Moore	Mr Lamont
Mr Stevenson	Ms McRae
Ms Szuty	Mr Wood
Mr Westende	

Question so resolved in the affirmative.

AMBULANCE SERVICE LEVY (AMENDMENT) BILL 1992

Debate resumed from 10 December 1992, on motion by **Ms Follett**:

> That this Bill be agreed to in principle.

MRS CARNELL (6.04): Madam Speaker, this Bill comes in two parts. The first part, as the Chief Minister adequately indicated in her speech, basically tidies up some administrative titles and makes some very sensible changes. The second part adopts a new formula for calculating the ambulance levy to bring it in line with New South Wales. That is an appropriate decision and one that is obviously necessary to raise the appropriate amount of revenue. On the Chief Minister's figures, it will raise $60,000 in this financial year and $360,000 in a full financial year.

The Liberal Party has absolutely no problems with the Bill up until clause 6. Clause 6 is the validation of a previously gazetted notice. This clause involves financial retrospectivity. This is something that the Liberal Party cannot and will not support. It is important to bring to the Assembly's notice a comment that was very appropriately made by the Scrutiny of Bills Committee. It was brought to our attention that in report No. 1 of 1992 the committee told the Assembly in respect of determination No. 14, which is the one referred to in section 6 of this Bill:

> ... the Determination is made by the "Chief Minister and Treasurer", whereas section 8(4) and 8(6) of the Ambulance Service Levy Act 1990 require the "Minister for Finance and Urban Services" to be the person involved. Perhaps a check should be made to ensure the determination is valid.

It would appear that that determination was not valid when it was made and will be valid only if clause 6 of this Bill is passed now, in December. Remember that we are talking about a comment made by the Scrutiny of Bills Committee right back at the beginning of this sitting period. I think that is an inordinately long time to try to solve what is obviously an important problem. The Liberal Party will not be supporting clause 6 of this Bill, because it involves financial retrospectivity and we do not believe that that is appropriate. We also believe that, as the matter was brought to the Minister's notice very early this year, the Government could have been substantially quicker in taking the necessary action.

MS SZUTY (6.07): I will be supporting the Government's Ambulance Service Levy (Amendment) Bill. However, like Mrs Carnell, I have reservations about clause 6 of the Bill as it stands because of its retrospective nature. As pointed out by Mrs Carnell, the Scrutiny of Bills Committee drew attention to this matter in April of this year, and it seems quite extraordinary to me that it has taken until December of this year for the validation of determination No. 14 to come before this Assembly. I raise the question: Would people actually be prejudiced by the retrospectivity of this legislation? The answer to that is yes. On that basis and on a matter of principle, I will not be supporting clause 6 of this amendment Bill.

MR MOORE (6.08): Madam Speaker, this Bill emphasises the distinction that members of the Government are going to have to try to make. They take a long time themselves to prepare legislation and then expect it to go through the parliament quickly. Mr Connolly likes to say, "Slow, slow, fast, fast". Yes, we know that "slow, slow, fast, fast" is their policy - slow, slow for them to prepare anything and get it to the Assembly, and then fast, fast through the Assembly so that nobody gets to look at it. If Mr Connolly, in his petulant and arrogant way, wants to do things in that way, then that is fine; but it is not necessarily going to work for the majority of members of this house. Madam Speaker, if a Bill has been presented and there has been a genuine reason for it to go through quickly, members of the Assembly have been prepared to support it. An example is the Crimes Bill on fighting.

The first part of the Ambulance Service Levy (Amendment) Bill is fine. I have no difficulty with that, Madam Speaker. The Government had the opportunity to remedy quickly the matter dealt with in clause 6. They chose not to do it quickly. They chose to take their time and have used retrospectivity as their method. I have stated in this house a number of times that I oppose retrospectivity. There are times, Madam Speaker, when retrospectivity in fact does not have a financial or legal impact on people and there is a role for it on those occasions. On this occasion there is a financial impact, and I indicate that when it comes to clause 6 I shall be voting against it.

MS FOLLETT (Chief Minister and Treasurer) (6.10), in reply: Madam Speaker, I thank members for support of the Bill in its main thrust. Clause 6, as members point out, does make the levy increase retrospective to an extent. I advise members that my information is that in fact the increase has already been passed on to the consumer, the contributor. So, if you were to deny that retrospective aspect, you could merely be providing to the companies involved something of a windfall, because they have already charged the higher fee. That has happened because we are generally in line with New South Wales and because the administrative arrangements for the ambulance levy and the ambulance fund are kept the same as those in New South Wales. I take the point about retrospectivity, but I offer the advice that you may not be protecting the people that you seek to protect in opposing clause 6 of the Bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 5, by leave, taken together, and agreed to.

Clause 6

MR HUMPHRIES (6.11): Madam Speaker, for the reasons outlined by Mrs Carnell, the Liberal Party will not be supporting this clause. It has already been referred to by others in this debate. Ms Follett made reference to what the health funds might do with this money if it is refunded to them or if it is not collected from them when it has already been collected from their members. I do not know what they will do with it; but the point, of course, is that either we stand against retrospective taxation or we do not.

We cannot get to the point of saying, "It is all right to retrospectively tax certain individuals, certain corporations or certain bodies and it is not all right to tax others". That is a silly proposition. It is a ridiculous proposition. I do not care whether it is the health funds, individuals, someone in the remand centre or whoever it might be who gets taxed retrospectively. It is wrong, it should not take place and we should oppose it wherever it occurs. I hope that the administration will get the message very quickly and that they will not try to pull on these kinds of things again if these sorts of measures are considered as a device in future.

The fact of life is that this particular provision arises out of comments made, I understand, by the Scrutiny of Bills Committee back in April this year. We are now at the stage where, at the death knell of the Assembly in December, amendments are put up to retrospectively make up for the taxation that the Government could have been collecting since April. If I had seen a Bill come down quickly in May, I might just have been tempted to deal with the matter.

Mr Connolly: You would have said, "Too fast".

MR HUMPHRIES: No. The point of the matter is that you have known since April that this has been a problem and you thought to yourselves, "That is all right. We will just carry on as we have been doing. We will continue to collect the money and we will backdate the law so that they have to fork out the money, notwithstanding the fact that we have not done anything about it for more than six months". That is not good enough. It is not the way we should work. The way we should work is to make it clear that we are going to tell the people, whether they are individuals or corporations, in advance what their tax obligations are so that they know, on the basis of their prospective obligations, what they should do about their particular financial situation. For that reason, Madam Speaker, we oppose clause 6.

MR MOORE (6.14): I think it would be of interest in debating this clause if the Chief Minister were prepared to indicate to members the sum of money involved in this retrospectivity. That would certainly be an addition to the debate. Madam Speaker, I recall the reaction when Malcolm Fraser retrospectively legislated against the bottom-of-the-harbour scheme. Much as I disagreed with the bottom-of-the-harbour scheme and those sorts of tax evasion methods, I think the principle of changing the law retrospectively to make illegal what was legal under the taxation system was inappropriate.

Legislating retrospectively to catch people in that way was inappropriate because the fault was clearly the Government's inadequacy. That is what Mr Fraser was not prepared to wear. It seems to me that the inadequacy here - certainly from April onwards - is with the Government rather than with the health funds that were collecting the levy. It is inappropriate for us to legislate retrospectively in this case.

Question put:

That the clause be agreed to.

The Assembly voted -

AYES, 8	*NOES, 9*
Mr Berry	Mrs Carnell
Mr Connolly	Mr Cornwell
Ms Ellis	Mr De Domenico
Ms Follett	Mr Humphries
Mrs Grassby	Mr Kaine
Mr Lamont	Mr Moore
Ms McRae	Mr Stevenson
Mr Wood	Ms Szuty
	Mr Westende

Question so resolved in the negative.

Title agreed to.

Bill, as amended, agreed to.

UNIT TITLES (AMENDMENT) BILL 1992

Debate resumed from 10 December 1992, on motion by **Mr Wood**:

That this Bill be agreed to in principle.

Motion (by **Mr Kaine**) put:

That the debate be now adjourned.

The Assembly voted -

AYES, 9	*NOES, 8*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Moore	Mr Lamont
Mr Stevenson	Ms McRae
Ms Szuty	Mr Wood
Mr Westende	

Question so resolved in the affirmative.

EVIDENCE (AMENDMENT) BILL 1992

Debate resumed from 10 December 1992, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

Motion (by **Mr Humphries**) put:

That the debate be now adjourned.

The Assembly voted -

AYES, 9	*NOES, 8*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Moore	Mr Lamont
Mr Stevenson	Ms McRae
Ms Szuty	Mr Wood
Mr Westende	

Question so resolved in the affirmative.

PAPER

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport)**:** Madam Speaker, members may recall that in question time I referred to a letter which I had on my desk for signing to Mrs Carnell in relation to the quarterly activity report of the Board of Health. I table that letter.

CRIMES (AMENDMENT) BILL (NO. 4) 1992

Debate resumed from 10 December 1992, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

Motion (by **Mr Humphries)** put:
That the debate be now adjourned.

The Assembly voted -

AYES, 9	*NOES, 8*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Moore	Mr Lamont
Mr Stevenson	Ms McRae
Ms Szuty	Mr Wood
Mr Westende	

Question so resolved in the affirmative.

MAGISTRATES COURT (AMENDMENT) BILL 1992

Debate resumed from 10 December 1992, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

Motion (by **Mr Humphries**) put:
That the debate be now adjourned.

The Assembly voted -

AYES, 9	*NOES, 8*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Moore	Mr Lamont
Mr Stevenson	Ms McRae
Ms Szuty	Mr Wood
Mr Westende	

Question so resolved in the affirmative.

MAINTENANCE (AMENDMENT) BILL 1992

Debate resumed from 10 December 1992, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

Motion (by **Mr Humphries**) put:

That the debate be now adjourned.

The Assembly voted -

AYES, 9	*NOES, 8*
Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Moore	Mr Lamont
Mr Stevenson	Ms McRae
Ms Szuty	Mr Wood
Mr Westende	

Question so resolved in the affirmative.

ADJOURNMENT

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

That the Assembly do now adjourn.

Legislative Process

MR MOORE (6.32): Madam Speaker, I rise to comment on a matter that has been drawn to my attention by my staff. A number of people who have phoned to lobby me in the last week have pointed out that the staff of Mr Connolly's office have indicated to them that Ms Szuty and I have been holding up legislation. Madam Speaker, that is significantly misleading the public. It is not within my ability to do that. It is this Assembly that decides whether or not legislation passes, and it is not up to me or Ms Szuty, or the combination of us, to determine that. Madam Speaker, I use this opportunity to ask Mr Connolly and his staff not to mislead the public in that way. I add that to do so reflects on decisions of the Assembly.

Legislative Process

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (6.33): Madam Speaker, I refute that I or my staff have been misleading members of the public. I think we may have said to people concerned with adoption law reform that Mr Moore and Ms Szuty were voting to defer debate, which has had the effect of holding the legislation up. The records of this house, the *Minutes of Proceedings* and *Hansard*, show that that indeed happened.

In relation to another matter today which was of extreme concern to various groups in the community, again we probably indicated to interested members of the community that the Independents and the Liberals, we thought, were going to vote to adjourn the matter. Again the *Minutes of Proceedings* will show that that is precisely what happened. I refute that there has been any misleading. If members make decisions that they want to defer legislation, for whatever point, they simply have to live with the consequences.

Legislative Process

MS SZUTY (6.34): I rise to support what Mr Moore said in regard to this matter. It disturbs me greatly that Mr Connolly's staff would attempt to speak on my behalf on any matter. I certainly would not treat Mr Connolly or his staff in the same way if the boot were on the other foot. I also point out that the time that it has taken me to deal with these matters, particularly today, has consequences in that other matters that come before this Assembly cannot be dealt with in the manner in which I would like them to be dealt with.

Question resolved in the affirmative.

Assembly adjourned at 6.35 pm

ANSWERS TO QUESTIONS

MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION
QUESTION 306

Mammography Program

Mrs Carnell - asked the Minister for Health:

1. How much of the money made available by the Federal Government for mammography screening has been claimed by the ACT?

2. When will the ACT imply mammography screening for all female residents over the age of 50?

What will the cost of this program be to the ACT?

Where will the program be conducted?

How many mammogram tests will be done annually in the ACT?

Mr Berry - the answers to Mrs Carnells question are as follows:

1. The Federal Government has made available $1.181m over the 1992193 and 1993/94 financial years in matched funding grants for the program and additional unmatched grants of $ 62 500 for staff training in 1992/93, and $139 000 for 199203 and 1993/94 to establish a program data management system.

2. The ACT Health breast screening and assessment unit is due to open in January 1993 and will target women aged 50 years and over. It will however be available to women in the age range 40-49 years.

3. The total costs to the ACT under the matched funded proposal will be $1.181m over 1992/93 and 1993/94.

4. The screening and assessment unit will be located in the ACT Health building on the corner of Moore and Alinga Streets, Civic.

5. It is expected that the program will screen approximately 6 500 women this financial year, 10 000 in 1994 and 13 000 annually thereafter.

4045

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 396

Adolescent Development Programs

MR CORNWELL - asked the Minister for Education and Training on notice on 17 November 1992:

Is the Minister able to indicate what is the difference in the roles of Dairy Flat Centre Adolescent Development Program of his Department and the Adolescent Day Unit of the Department of Planning and Community Services (Proof Estimates Transcript)

MR WOOD - the answer to Mr Cornwells question is:

Adolescent Development Program at Dairy Flat provides a Developmental program to help students who may be experiencing behavioural, emotional, educational or social problems. The program caters for students aged 12-15 years.

A variety of high interest programs are offered at the site including basic academic skills and vocational programs. An outdoor education program is also offered. All programs are designed to enhance self esteem and living skills.

The program has enabled the Department to provide a more flexible range of options for a greater range of students experiencing behaviour problems in high schools.

The Adolescent Development Program is essentially an educational program. Staffing consists of three teachers (including one Executive Teacher), one Youth Worker and a part time Counsellor.

The Adolescent Day Unit of the Department of Housing and Community Services caters for adolescents between 12-15 years with behavioural disturbance problems that do not allow them to participate in an educational program or have emotional problems of sufficient severity to prevent attendance at school.

The staffing of this Unit consists of: Director of the Unit (Psychologist), Psychologist, two Youth Workers, part time teacher (Department of Education) and an Administrative Officer.

4046

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 399

Non-Government Schools Funding

MR CORNWELL: - asked the Minister for Education and Training on notice on 17 November 1992:

In relation to funding to non-government schools through the One Nation Package (Proof Estimates Transcript 723-4).

(1) What is the total funding in each area for (a) 1992-93 and (b) 1993-94.

(2) what criteria will apply for a share of such grants.

MR WOOD - the answer to Mr Cornwells question is:

Funding from the One Nation Package for Non-Government Schools in the ACT is through the ACT Block Grant Authority which is a Commonwealth Government Capital Grant program. .

The ACT Block Grant Authority will receive additional funding as follows:

1992 calendar year $362,923

1993 calendar year .$356,604

The funds are available for both maintenance and/or new works. Not all ACT Non-Government schools will benefit from the One Nation Package as schools must apply and meet various criteria before being accepted for consideration for a grant under the allocation.

(2) The criteria which apply to the allocation of grants are set down by the Commonwealth Department of Employment, Education and Training and are at Attachment 1 and 2.

This Department has no input into the criteria which apply to the distribution of these grants.

4047

Attachment 1

Criteria for Funding One Nation Package

To be eligible for funding of projects,-a non-government school must:

have at least provisional approval for Commonwealth general recurrent funding. Schools may apply for capital funding while awaiting the outcome of an application for provisional approval for general recurrent funding:

demonstrate that the project will contribute to the objectives of the program;

demonstrate a financial need for the grant ie show that it and its supporting community do not have the capacity to meet the total cost of the project;

be proposing a project that does not exceed Commonwealth area or cost standards; and

in the case of projects providing new places, be proposing a project that is consistent with sound educational planning.

Schools are able to apply concurrently for funding under the general element and the secondary support element or hostels for rural students joint element of the Program or the capital support - non-government element of the Special Education Program, where they are eligible. While projects may be funded under a number of program elements, the total of the grant amounts approved will not exceed total project costs.

4048

Attachment 2

Criteria for Quality, Competencies and Technological Support Element (QCaTSE)

This new non-government element is being established to improve the quality of schooling; to help meet the broader curricula and other developments, such as those recommended by the Finn and Carmichael Reports.

It is envisaged that the following types of projects will be eligible and emphasised (though these are not exclusive):

library/ information/ resource/ technical centres, which support curriculum change and enhancement;

communication systems and networks to facilitate communication between separated and distant locations (permitting eg new teaching patterns, extension of curriculum, better access to information resources); and the funding of equipment and facilities to enable the utilisation of such systems;

facilities and equipment supporting innovative teaching patterns, eg large group, tutorial, open learning, clusters of junior schools, senior student groups or clusters, extended opening;

preparation areas and facilities for teachers and paraprofessional staff, supporting curriculum development, lesson preparation and materials preparation;

facilities and equipment supporting key curriculum initiatives in, for example, language, design;

facilities assisting individual study, such as study halls, homework centres;

facilities encouraging shared provision of equipment and access to resources among non-government and government schools and TAPE institutions, including for example specialised workshops; laboratories and libraries; and collocation of separate institutions;

facilities and equipment supported by business and industry.

4049

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 400

Narrabundah TAFE Campus - Southside Community Centre

MR CORNWELL - asked the Minister for Education and Training-

(1) What is the disposition of the old Narrabundah TAM Campus (Proof Estimated Transcript .p 767)

(2) How much space is available

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

(1) The former Narrabundah SAFE Campus was handed over to the Health and Community Services Bureau on 31 January 1992, and is now knockouts the

:Southside Community.Centre. The.Institute of TAFE occupied a small area of the building for an Aboriginal group until 3 July 1992 when his group moved to the Southside Campus ,

(2) The. approximate area of the building is 1225m2. No space is currently available, as: it is all occupied by Southside Community. Centre.

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MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 402

Government Schools - Truancy

MR CORNWELL - asked the Minister for Education and Training on notice on 17 November 1992:

What is the extent of truancy in the ACT and can a percentage breakdown be provided between primary schools, high schools and colleges.

MR WOOD - the answer to Cornwells question is:

Truancy not considered a major problem in ACT schools and wide collection of attendance data is not being carried out.

Individual schools monitor the attendance of their students carefully and make contact with parent/guardians in the event of long or frequent absences.

4051

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO. 407

Housing Trust - Rental Rebate and Restitution
Payment Defaulters

MR CORNWELL - asked the Minister for Housing and Community Services -

In relation to your reply to question on notice No 314 that "data is not readily available", why is not data available on the amount of bad debts written off in respect of 1991-92 Housing Trust defaulters.

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

Question on Notice No. 314 from Mr Cornwell did not ask for details of-bad debts written off in 1991-92 but asked for details pertaining to 1989-90 and 1990-91.

The Housing Trust wrote off irrecoverable debts of $63,154 in 1991-92.

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MINISTER FOR HEALTH

LEGISLATIVE ASSEMBLY QUESTION

QUESTION 409

Ambulance Service - Work Futures Review

Mrs Carnell - asked the Minister for Health:

In relation to the service provided by Work Futures to develop relations bctween unions at a cost of $14,732 -

What has been the outcome of this work.

When was the work commissioned and completed.

Which unions was the work performed by Work Futures aimed at.

Who are the principals of Work Futures.

What steps were followed in putting this consultancy opportunity out to tender.

Mr Berry - the answer to Mrs Carnells question is as follows:

(1) On completion of the review of the ACT Ambulance Service by Work Futures. Ambulance Management and the Transport Workers Union reached agreement regarding implementation of the recommendations contained in what is known as the Cole Report. The objective of the Cole Report was to facilitate processes and mechanisms to further the working relationships for the future between management and the Union. The implementation of the Report has had a positive impact on training programs to address broader people/management skills, and has also enhanced union consultation and involvement in matters affecting the Ambulance Service.

(2) The review was commissioned in September 1991 and completed on 8 October 1991.

(3) The union involved with the ACT Ambulance Service is the Transport Workers Union.

(4) The principal of the Work Futures consultancy firm is Reg Cole.

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() As part of an industrial concern senior managers made intensive inquiries about a suitable consultant to commence work as soon as possible on improving consultative processes. Mr Cole was known to be suitable and was available. He was selected on this basis.

4054

MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION
QUESTION 429

Queen Elizabeth II Hospital

Mrs Carnell - asked the Minister for Health:

In relation to the location of the new Queen Elizabeth II Home for Mothers and Babies:

(1) With which organisations did the Government consult before making the decision to move the facility from its present location in Civic to the Acton Peninsula.

(2) Did the Minister consult Canberra Mothmm-aft Society, the organisation which manages the Queen Elizabeth II Home for Mothers and Babies.

(3) Will the Government consider retaining the facility at its present location in. Civic or at a similar location.

Mr Berry - the answer to Ms Carnells question is as follows:

(1) The relocation of the Queen Elizabeth II Home for Mothers and Babies to the Acton Peninsula was considered as part of the Acton Health Facilities Planning Study.

The Acton Health Facilities Planning Study consulted with a number of organisations and services in relation to the services delivered by the Queen Elizabeth II Hospital and a number of agencies were represented on the Working Party for the Functional Brief prepared by Richard Glenn and Associates and ACT Public Works.

(2) The Canberra Mothercraft Society was represented on the Queen Elizabeth II Working Party that provided the expertise for the preparation of the functional brief. Also, the Society through the Board Chairperson, Ms Jean Mulvaney was consulted by consultants Phillipa Milne and Associates who undertook to review the current service role of QE11 and make recommendations as to the future development of the service.

(3) No option other than the relocation of the facility to Acton Peninsula is being considered at this time.

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