DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

31 March 1993

Wednesday, 31 March 1993

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

PETITION

The Clerk: The following petition has been lodged for presentation:

By **Mr Moore**, from 20 residents, requesting that the Assembly create landlord-tenant legislation that addresses fair rent, lease agreements and security of tenure.

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

Landlord and Tenant Legislation

The petition read as follows:

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.
>
> The petition of residents and the lessees of Campbell Shopping Centre draws to the attention of the Assembly the following concerns:
>
> . That the livelihood of the lessees of the Campbell Shopping Centre and the continuation of this local shopping centre, including Pharmacy, Supermarket and Restaurant, is being threatened by the actions of the landlord.
>
> . The petitioners draw your attention to the fact that the pharmacy services the St. Vincent de Paul Aged Home and the general ageing population in Campbell.

Your petitioners therefore request the Assembly to:

> Create Landlord/Tenant legislation that addresses fair rent, lease agreements and security of tenure.

Petition received.

DOG CONTROL (AMENDMENT) BILL 1993

MS SZUTY (10.32): Madam Speaker, I present the Dog Control (Amendment) Bill 1993.

Title read by Clerk.

MS SZUTY: I move:

That this Bill be agreed to in principle.

Madam Speaker, this amendment Bill will tighten and toughen some of the provisions of the Dog Control Act 1975. These initiatives have come about in response to genuine community concern about dogs which attack people and other animals, and the seeming unwillingness of dog owners to take appropriate action to care for, and keep under control, their pets. There has also been some criticism of the dog control unit with regard to the enforcement of the provisions of the Act, and criticism of decisions of the courts, which appear to hand out light penalties to offending keepers, even after the offence has been proven.

Since I announced publicly that I would move to amend the Dog Control Act, I have received many calls from people advocating that stronger action be taken against attacking dogs; that is, dogs that have attacked both young and old people without provocation and that have attacked other domestic and non-domestic animals. By seeking to strengthen the Act in a number of ways, I am not being anti-dog. I have been, in the past, a dog owner and I thoroughly support people being allowed to own dogs as pets. I acknowledge that the vast majority of dog owners love and care for their pets and exercise them willingly and regularly. Unfortunately, however, some owners persist in apparently subscribing to the belief that dogs should be allowed to roam free through the suburbs. This is not responsible dog ownership, and it is because of the lack of control of these animals that I am presenting this amendment Bill in the Assembly today.

While I am discussing the various merits of dog owners, I point out that a quite large proportion of dogs, even those that are well looked after and whose owners ensure that they are not a public nuisance, are not registered. This matter was raised by a number of speakers in the matter of public importance debate yesterday. Many ideas have been put forward in the past few days and, as members consider the measures I propose in this Bill, proposals for ensuring that dog owners accept the obligation to register their dogs may also be considered. Compulsion has not been very successful in the past. I am sure that it will take an extraordinary effort to gain cooperation on this matter, but I am prepared to contribute.

Dog ownership should carry with it a recognition that it is a responsibility. It has been said often enough in the past, and will continue to be said, that people contemplating dog ownership do not often consider the responsibility they are taking on. The attraction of a small puppy lasts only a short time, and during that time the dog needs more than just food, water and a bit of exercise. In the urban context, that same puppy needs to be registered with the appropriate authorities, and it needs obedience training, regular and appropriate exercise, proper shelter, a yard or relatively large fenced area which will adequately contain the dog when it is not out on supervised walks, and an owner who shows affection and concern

for the animal's well-being. Unless the dog is being kept for breeding purposes, it should also be desexed. All of that responsibility costs in terms of cash outlay and time, and people who want to have a pet dog should weigh up their commitment to that animal. It is not sufficient to purchase an adorable puppy and make no arrangements for its safekeeping and well-being. That responsibility includes ensuring that the new pet does not become a public nuisance.

It is when the behaviour of dogs interferes with the lives of others and causes them genuine fear for their safety or that of other animals that we rely upon the Dog Control Act to provide the means of removing that threat. I feel that the amendments I propose in the Dog Control (Amendment) Bill 1993 will better achieve the desired result. Firstly, I have moved to increase the powers of the dog control unit inspectors. At present, inspectors can legitimately enter premises only to ascertain whether there have been any breaches of that part of the Act, section 18A, that states that the number of dogs that can be kept on a property as pets shall be limited to three. Under the proposed amendment, inspectors can enter premises if they believe that the keeper of a dog is in breach of any section of the Act.

Subsection 25(4) of the Dog Control Act currently states that, where a keeper of a dog is convicted of an offence, including an attack on a person, behaviour leading to a reasonable fear of an attack or an attack on another animal, the court may, if it thinks fit, order that the dog be destroyed. I have felt, as have many of the people who have contacted me in recent weeks, that this has left too much discretion for the dog to be returned to its owner. Let me be quite specific: For the keeper to be found guilty, the prosecution must first prove its case, as is the norm, beyond reasonable doubt. To prove its case, the prosecution must prove that the dog was not provoked in the attack and that the attack did not take place while the victim of the attack was unlawfully on the property of the keeper of the dog.

I am not advocating immediate destruction of dogs accused of attacking but that when a dog has been proven to have attacked, as described as an offence under the Act, it should be ordered that the dog be destroyed. The amendment as proposed has the effect that, unless there are exceptional circumstances put before the magistrate, a dog found to have attacked will be destroyed. The community has this expectation, and it has become obvious in the past few weeks that much concern has been generated by stays of execution and orders to remove offending dogs from the Territory, even after the cases against the owners have been proven. After discussion with the ACT's Chief Magistrate, Mr Ron Cahill, I have included the provision allowing for consideration of exceptional and extraordinary circumstances before the order is made to destroy a dog which has attacked. This gives magistrates room to consider the particular merits of the case against destruction. However, the amendment to this section could not make the initial direction to the court any clearer.

Before it can be determined that a dog has attacked a person or animal, the dog must be seized by the dog control unit. In my amendments to the Act I have included provision to allow dog control unit officers to enter onto premises for the purpose of seizing dogs suspected of having attacked a person or another animal. Under the current Act, unless the land is that of the keeper of the dog, inspectors need the permission of the occupant of the land before they can enter, which seems an unnecessary bar to the officers in execution of their duty.

I am sure that most people would not hamper dog control unit officers as they attempt to seize a dog after an attack. However, the Act still allows this as a possibility. For example, there is nothing in the current Act to stop friends or neighbours harbouring a dog suspected of an attack for its keeper until fear of seizure has passed. This loophole should now be closed.

I now come to consideration of one of the major amendments - the removal of the discretion of the Registrar of Dogs as to where a dog is kept while a case is filed against it. I was shocked and not a little disquieted by the fact that a dog which had allegedly bitten three people was returned to its owners while a case was prepared against the owners. There seemed little dispute that the dog concerned had been at large, which in itself is an offence under the Act. This is one part of the Act about which stronger measures need to be taken by the registrar. After all, dogs at large are impounded. Why, then, should dogs which are suspected of attacks be returned to the custody of the person who is facing charges? I know that the premise is "innocent until proven guilty", but in the case of alleged attacks I am sure that the community would rather err on the side of caution.

Under this amendment, dogs will be impounded in facilities specifically designed for that purpose. I have made provision for the possible use of alternative facilities should the Registrar of Dogs feel that it is necessary. However, under no circumstances should a dog be returned to its keeper until it is proven innocent or the court rules that there are exceptional circumstances for not destroying it. Under this latter scenario, I would expect that magistrates would make similar rulings to those now made and which would address the care and control of the offending animal.

In addition, dogs kept while awaiting court consideration of charges against their keepers will be kept at the expense of those keepers. This is to allow the registrar to recoup the costs of impounding an animal that is eventually proven to have attacked. If there is no case to answer or if it is decided not to proceed with the prosecution, the dog can be returned without charge. However, the provisions for charging for the impounding of a dog at large will continue. Further amendments to paragraphs 31(1)(a) and (b) are to allow the Registrar of Dogs more time to prepare cases. I understand that the complexity of modern court processes and the number of cases that have to be dealt with under this Act have led to the current constraints in time being a severe constraint on the registrar. There will now be a 28-day period for charges to be prepared and laid and a maximum of 30 days for which a dog can be held before release if no charge is laid.

The commencement provisions of this amendment Bill state that it shall come into effect from 1 July 1993. There are several reasons for this provision. Firstly, there is a need, in my estimation, to give the Registrar of Dogs, owners of dogs currently facing prosecution, and the courts time to prepare for change. It would be unfair, in my estimation, to change the rules without adequate notification. The registrar may make different decisions about which owners will face prosecution and under which sections of the Act she would like to proceed following these changes. Therefore, I feel that the registrar should be given sufficient time to advise dog owners facing prosecution of what the possible outcomes for their dogs are and also to advise owners of the costs of impounding dogs which are seized with a view to bringing forward prosecutions for alleged attacks.

Concern has been expressed by both the Minister, Mr Bill Wood, and the Liberal spokesman, Mr Lou Westende, that much needs to be done to strengthen the Dog Control Act. It may well be the case that in the next sittings of the Legislative Assembly we will debate up to three Bills seeking to amend the Dog Control Act 1975, and I welcome that debate and discussion. I am sure that the ACT community will look forward to stronger and more responsive dog control laws as a result. However, I feel that there is a need to be even-handed in our approach and to ensure that all players have sufficient notice of any changes. Some other amendments may well be possible to implement in a shorter timeframe. My estimation of the changes I wish to bring into the Act is that a certain amount of time - in this case, not more than about seven weeks - is needed to make the changes, but I feel that it is important to incorporate this into the changes proposed. This also gives the community a timeframe for the introduction of these changes.

Madam Speaker, I hope that the issues raised in the debate about dog control receive full and public airing. I will be consulting with many groups, including the RSPCA, about the welfare of dogs and how these groups and individuals feel about my proposals. I feel at this time that they are fair, work within the current system to meet the expectations of community members that they will be protected from dogs which attack people and other animals, and place the responsibility for adequate care and the exercise of control over dogs squarely with the keepers of the dogs. I will also be canvassing opinions from those I consult on how best to encourage more responsible dog ownership. As I have said earlier, I do not feel that most people are irresponsible, but I do feel that dogs in an urban environment must have certain needs met, and people who do not feel prepared to meet those needs are not accepting the full responsibility of dog ownership. I must then look to the Government to devote the resources needed for better enforcement of the Act to the Registrar of Dogs. While we can all make a very loud noise about the flouting of laws by dog owners, it is useless to discuss increased penalties with increased inspection powers, or any other move, unless we are to see a definite attempt to police the laws we have.

I am concerned that I have heard reports that the Registrar of Dogs has lost or is about to lose a staff member and that staffing levels are such that enforcement of the Act is very difficult. I welcome the announcement made yesterday by the Minister that the dog control unit is to have more staff. Perhaps the Minister, when he responds to this amendment Bill, will elaborate on how he sees the provisions of the Act being enforced. I am aware that the budget is tight and that other priorities take up much needed funds; but, if the problem is worth making pledges and promises to remedy, it is also worthy of some funding to allow those pledges and promises to be met.

Madam Speaker, in conclusion, I put forward the proposition that, as members of an Assembly that has both municipal and State responsibilities, we need to be able to bring forward innovative, imaginative and cost-effective answers to the issues facing the community. I feel that, within a legislative framework, my amendments have gone some way towards achieving this. I look forward to seeing the further suggestions of other members and hope that the community will feel more secure and safe from attacks by unrestrained dogs because of our actions. I ask for leave to present an explanatory memorandum to the Bill.

Leave granted.

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

CHILDREN'S SERVICES (AMENDMENT) BILL 1993

MR CORNWELL (10.45): Madam Speaker, I present the Children's Services (Amendment) Bill 1993.

Title read by Clerk.

MR CORNWELL: I move:

> That this Bill be agreed to in principle.

Madam Speaker, this legislation has a twofold purpose: Firstly, to endeavour to obtain reparation for vandalism to public property or private property carried out by under-age offenders; and, secondly, to make more parents more aware of the responsibilities they have for their children. The background to this legislation is that originally it was to apply only to school vandalism. While this is still the case, advice from the legislative drafting section has put to me that this legislation can be, and has been, broadened to include all forms of vandalism.

The genesis of the legislation can be found in the cost of school vandalism, as advised to me in the reply to question No. 315 of 4 January 1993 from the Attorney-General, and in correspondence of 25 March 1993 from the Minister for Education. The information provided reveals the sorry cost of anti-social behaviour in respect of our schools, with burglary, property damage and arson in 693 incidents in 1991 totalling damage of $329,260; similar categories with 881 incidents in 1991-92 totalling $266,881; and in the first seven months of 1992-93 some $165,000, including three cases of arson.

The law as it stands provides for reparation to be ordered by the court in respect of an adult offender under section 437 of the Crimes Act. Similarly, paragraph 47(1)(f) of the Children's Services Act provides for the court to seek maximum reparation of $1,000 from a child. My legislation extends this reparation to the parents of a child. Clearly, it would not serve much purpose to attempt to obtain substantially more reparation than $1,000 from an under-age person. Why, however, do we seek such reparation from parents? Very simply, while it is fashionable, I would say even mandatory, these days to speak of a person's rights, not much attention is paid to a person's responsibilities. I submit that parents do have a responsibility to and for their children. After all, only yesterday Ms Ellis said on television that she expected people to be responsible for their dogs. Why, then, should they not be responsible for their children?

This legislation is not draconian. I point out that it recognises quite clearly that some parents simply cannot control their children. Hence proposed new paragraph 62A(1)(c) provides:

> Where -
>
> ... ...
>
> (c) the Court is satisfied that there is reason to believe that a parent of the child may have contributed to the commission of the offence by a wilful and habitual failure to exercise due care and control of the child;

Mr Berry: Put a muzzle on them when you take them out.

MR CORNWELL: Madam Speaker, I would like you to put a muzzle on the Minister for Health while I am speaking. This proposed new paragraph thus enables the court not to impose a reparation order on parents of an offender if those parents have done all in their power to control and to care for their child. It will require a wilful and habitual failure to exercise due care and control of the child before the court can seek reparation. I might add that that provision would also obviate the absurd example given by Mr Connolly last night on television of a boy having an argument with his parents and getting back by burning down a school. That would not be an example of a parent exhibiting a wilful and habitual failure to exercise due care and control.

The legislation, however, will apply to parents who have regularly not exercised such care and control. Here I make the point that we are dealing with under-age offenders, maybe 13 or 14 years of age, and it is reasonable to expect parents to know where they are, particularly at night, when much of this often quite sophisticated vandalism occurs. I say "sophisticated" because evidence of paint daubed walls and equipment and of attention by spray cans, I would suggest, indicates premeditation.

Mr Wood: Paint is a fairly common element around schools.

MR CORNWELL: It would also probably lead to telltale evidence, Mr Wood. So, even if the parent were unaware before the event of just what the child was doing, one would expect any reasonable, responsible adult to question a son or a daughter who came home paint smeared.

Let me at this point lay to rest a canard that I anticipate will be raised against this legislation, that is, that it will affect those least able to pay. Firstly, I point out that it can be a matter of negotiation as to how the reparation is paid, either in full or perhaps in instalments. Secondly, the suggestion that only the poor are likely to have delinquent children is offensive and insulting and does not square with oft quoted, albeit selective, experience.

This experience argument states that, if it is, say, domestic violence, then every stratum of society is involved because it is topical to see domestic violence as an issue, it is gender specific, and therefore responsibility can be sheeted home with condemnatory impunity. Responsibility for vandalism, however, is not so currently fashionable, so we question its worth as a matter of social concern and we do so by using the poor as our ammunition, suggesting that they predominantly will be the victims. In reality, the victims are society in general and in particular the hardworking parents of the various vandalised schools. It is often the results of these parental efforts through the P and C, with its fetes and cake stalls and other volunteer fundraising activities, that suffer most.

The Government has taken no legal action against convicted offenders to obtain reparation. One must ask why. As previously stated, the opportunity to do so exists already in respect of adults and up to $1,000 for children. Why has the Government failed either to act or to direct the Department of Education, in the case of schools, to act through the courts to seek this reparation? You cannot expect individual school principals, as was suggested during the 1992 estimates

hearings, to pursue the matter. The school has neither the resources nor the time available, nor, I would suggest, probably the expertise; nor can you expect the department to act unilaterally. It does require political direction, and I suggest that it is this political will that is lacking at present, while thousands of dollars of hard work is trashed in schools and in the wider community by under-age vandals.

I do not claim that this legislation will eradicate the problem, either in schools or elsewhere. However, it will perhaps reduce it and, hopefully, make parents more aware of their responsibilities for their children to the community. I believe that it will certainly provide the community with some restitution for the damage caused, providing that there is the political will to do so. I commend the Bill to the house.

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

COMMERCIAL TENANCIES BILL 1993

MR MOORE (10.55): I present the Commercial Tenancies Bill 1993.

Title read by Clerk.

MR MOORE: I move:

> That this Bill be agreed to in principle.

This Bill seeks to establish an Act of this Assembly which will regulate the relationship between lessors and lessees and provide a mechanism for resolving disputes between parties to a commercial lease. During the election campaign leading up to the formation of the First Legislative Assembly of the ACT, the Labor Party distributed many hundreds of copies of a circular to commercial tenants throughout the ACT. These included commercial tenants in both retail industry and other types of commercial activity. I quote from this circular:

> We are going to election at a time of publicity about extreme rent increases and other impositions on commercial tenants ... in the interests of the consumer and small business we believe it necessary to step in and make this relationship fairer and more equitable.
>
> A Labor Government is committed to introducing legislation to protect commercial tenants.

Madam Speaker, there are members with excellent memories who will recognise that every word I have spoken so far is quoted from *Hansard*. The words I have used so far are the words of Paul Whalan in March 1990, when introducing the Business Leases Review Bill. It did not get a guernsey. He went on to say that members of the tenants association had asked him why the legislation had not been introduced earlier. Deja vu. The same tenants association, along with many members of the public, are still asking why the Labor Party has not taken the very steps it promised in 1989 to protect the rights of commercial tenants in the ACT.

Mr Berry: Because they did not all vote for us.

MR MOORE: From Mr Berry's interjection, it would appear that Labor is interested only in those who voted for them and not in anybody else. That is not a bad way to increase your number of votes, Mr Berry.

Many may be curious as to why the Labor Party sought not to raise this issue when in government, only to feebly present it when in opposition. They may also ask why, now that the Labor Party is in government again, Mr Connolly has taken the soft option of reluctantly including the commercial tenants in the Fair Trading Act under a code of conduct - - -

Mr Connolly: No, not reluctantly.

MR MOORE: I withdraw the word "reluctantly" - when he knows that it does not have the teeth required to solve adequately the disputes that are rampant due to a lack of specific legislation. Mr Whalan went on to say:

> We believe that a tribunal without power to arbitrate on rent will be a toothless tiger.

In fact, in defence of criticisms from the then Government, he blamed Mr Jensen for stymieing the legislation by coming up with a code of practice solution. Referring to a committee, he said, as recorded on page 607:

> ... we were stunned and dismayed by the wimpishness of the recommendations. This is a wimp recommendation.

I could not have said it better myself. However, the tenants and residents of Campbell also said it when they passed a unanimous resolution on Wednesday, 10 March 1993. This resolution states:

> We, the residents of Campbell, call upon the ACT Government to introduce, as a matter of urgency, the legislation necessary to protect the retailers in Campbell and other centres in the ACT in a way that will enable them to trade equitably and with security of tenure.

Madam Speaker, with the leave of the Assembly I will table that resolution.

Leave granted.

MR MOORE: Thank you, members. Over the past two sittings we have been inundated with petitions which urge the Government to develop the very legislation they raised in 1990 - a tiger with some teeth. The question for Mr Connolly in particular is: Why have you opted for the toothless variety when your own party recognised the futility of such a move, as do the commercial tenants in the ACT? "We believe that any system relying on a code of conduct is not sufficient to ensure that all relevant parties adhere to the standards of fair rentals and security of tenure". It is a pity you missed that meeting, Mr Connolly. You would have been able to relive the old times, when your party was not in government and expressed solid support for small business. My mind goes, of course, to some words of Mr Humphries under these circumstances, but I shall not quote them.

As recorded on page 610, I think Mr Whalan's comments are particularly embarrassing for you. He accuses the Alliance Government of backing down from a promise to the tenants that action would be taken; he says that the recommendations do nothing to rectify what was identified as an imbalance of power between landlords and tenants. We have a curious situation here: A Labor government that adapts a previous Alliance wimp-out response to their own party's demands for tigers with teeth, that is, a code of conduct instead of specific legislation to redress the imbalance of power.

Mr Connolly: What did we say going into the election?

MR MOORE: It is curiouser and curiouser, that the Wonderland Labor Government, historically elected on a platform of representing the underdog, the working class, the disempowered, should refuse repeatedly to take action to protect those struggling in small business. Mr Adrian Redmond, the butcher who went broke in Campbell recently, Miss Barbara Kyle, the once owner of Fairyland Creche in Garran, plus many other retailers in Civic, Fyshwick, Mitchell, Woden and Belconnen, cannot possibly believe that a Labor government exists to protect the vulnerable when it takes the side of the Sheriff of Nottingham year after year. I do not blame them for thinking that they have champions in the Labor Party. Here is the answer to Mr Connolly's earlier interjection, "What did the Labor Party say?". The Labor Party platform states categorically, under the heading "Small Business", at 7.7:

> Protect small business from unfair and discriminatory practices, including by regulating relationships between lessors and small business tenants ...

Again, under "Leasing", at 32.2:

> An ACT Government will:
>
> Establish a commercial tenancy tribunal to review disputes arising from commercial tenancies.
>
> Legislate to ensure that commercial leases have basic protections in areas such as rent reviews, options, compensation for tenants' fixtures and fittings, minimum terms and assignment of leases.

So, thank you, Mr Connolly, for your question. Is it, perhaps, ACT Labor Party policy to renege on all of its promises that it published during election time one by one? If so, that is the one policy we seem to be able to count on. Contrary to popular opinion, I am not raising these matters simply to embarrass the Government out of a wimpish stance and into taking some action; I am presenting this Bill in the distinct hope that finally, after all this time, the Assembly will show some courage. I think this is an appropriate time to quote from the proceedings of the second House of Assembly on Monday, 20 June 1983. Mr Whalan, speaking on commercial tenancies, said, as recorded at page 3144:

> ... I would like to point out that the motion that is coming up is probably a little bit irrelevant because the ever active member for Canberra, Mrs Kelly, has been working very hard in this area; it was she who originally initiated this matter in the Assembly in 1974.

That is the House of Assembly.

Mr Cornwell: Who was this?

MR MOORE: That was Mrs Kelly originally. Mr Whalan continued:

> In many respects it was not as strong in defending tenants as Ros Kelly had originally hoped.

Mr Whalan referred back to Mrs Kelly dealing with this from 1974 onwards. So, this matter has been going on for the best part of two decades. He went on:

> I would say that the sector of the Canberra small business community who are tenants in commercial premises owes a great debt to the endeavours of Ros Kelly.

Twenty years later she still has not delivered. He continued:

> There has been no other person who has so consistently and persistently pursued this matter over the years.

Twenty-odd years later, she still has not delivered. He said:

> She originated the thing, she has pursued it and on the first opportunity of a change of Government she has taken it up with the Minister -

probably she took it up with the Minister for Territories; there are some great ironies in this, and remember that this is Paul Whalan speaking about Ros Kelly -

> to see that this particular sector of the business community does have some improvement in its right before the law.

There is a series of pages from House of Assembly matters that I have in front of me, from May 1984, December 1984, August 1983, and again in August 1985, where this matter was debated. What we are dealing with is not new. Members recognised throughout that time that a code of conduct on its own was inadequate. I think it is important for me to clarify that I believe that the code of conduct has an appropriate place in the work Mr Connolly has been doing under the Fair Trading Act, as advertised in the *Canberra Times* this Saturday. That should be the first step to resolving disputes.

There will still be cases, as has been shown in New South Wales and other places where a code of conduct is in place, where it simply does not work because there are people, both tenants and landlords, who simply will not manage to play the game in a fair and equitable way. That is when a Bill such as this is necessary, and that is why I see this Bill running parallel to the work Mr Connolly is doing under the Fair Trading Act. It is appropriate that this Legislative Assembly show some courage and give the tenants of this town the rights they are entitled to - fair rents and leases. How can this Assembly talk of supporting small business if it is not prepared to take this quite elementary step? Deferring to the demands and pressures of the sheriffs of Nottingham is, of course, a very Tory stance, Mr Connolly. These stances are what separate a humanitarian government from the traditional House of Lords comprising the landed gentry.

I present this Bill in the hope that the Labor Party honours its commitment to the tenants of small business in the ACT and the Liberal Party honours its oft stated support for small business and commercial tenants as well. In presenting the Bill, I point out to members that I am quite happy, during the period it sits on the table, for members to suggest modifications. Perhaps members can sit down together and see whether modifications are necessary and can be agreed on. I hope that this Assembly of only 17 members can work together in the best interests of small business in this town, which everybody suggests they are committed to doing. I commend the Bill to the house.

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

MOTOR TRAFFIC (AMENDMENT) BILL 1993

MR STEVENSON (11.08), by leave: I present the Motor Traffic (Amendment) Bill 1993.

Title read by Clerk.

MR STEVENSON: I move:

> That this Bill be agreed to in principle.

Madam Speaker, no armoured car hold-up has ever occurred in the ACT. Unfortunately, such is not the situation in most other States in Australia. When you look at the fact that the average armoured car hold-up gains about $90,000 compared to some $400 for a service station, one can understand the attraction to criminals. It certainly would be the ideal situation if armoured vehicles could park in a secure courtyard when picking up and delivering valuables or if they could back into a building that was also secured. But those things are usually not possible. The next best thing is to allow the vehicle to park as close as possible to the entrance to what is usually a bank.

We had a representative of the security industry come along to the Assembly and give a most interesting presentation to members. Ms Szuty came along, Mr Moore was there, and Mr Westende on behalf of the Liberal Party. We learned at that meeting that guards have been killed and that bystanders, members of the public, have been injured in armoured car hold-ups or attempts. They seem to attract particularly ruthless criminals, who will walk up to a guard and shoot without making any statement whatsoever.

The desire to park close to banks has caused some difficulty with parking regulations, although the parking branch have been most helpful in doing what they can to alleviate the problem. Nevertheless, there have been some difficulties and tickets have been issued. The effect of this Bill would be to allow armoured vehicles to park anywhere they like, except at bus stops or taxi ranks, provided that they do not cause obstruction or endanger members of the public or other vehicles.

We have surveyed this matter. In August last year, we asked whether armoured cars should be exempted from parking restrictions, that is, be allowed to park on shopping centre footpaths, red line kerbs, et cetera, when delivering or picking up money or valuables. The result was that 56.66 per cent of people said yes; 31 per cent said no; 8.66 per cent answered that they were not concerned; and 3.66 per cent did not have enough information to respond. Certainly, the majority agreed with such an exemption. Madam Speaker, I commend the Bill to the house.

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

BUILDING (AMENDMENT) BILL (NO. 2) 1992

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

That this Bill be agreed to in principle.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.13): While the Government has some agreement with the policy goals behind Mr Moore's legislation, this is one of those cases where we will not be supporting it. Mr Moore's Bill would have the effect of making it compulsory to provide wall and ceiling insulation in the construction of new houses and renovations in Canberra. The Government has, as I say, some sympathy with the concept that we should be encouraging, and in some cases making compulsory, the use of insulation. There is no doubt that additional use of insulation materials will lead to a reduction in energy costs, and that is a very positive objective. It is something the Government should be working to achieve.

Firstly, the Government does not believe that it is necessary to do this by stand-alone legislation, because it is possible to do it under regulations under the Building Act. Secondly, the Government does not agree with Mr Moore's proposition that we should be making insulation compulsory in both walls and ceilings. It is a question of balance. We know that most of the people who are buying new homes in Canberra are doing it pretty hard. Certainly, there are some people who are moving to areas of Gungahlin and Tuggeranong and building very lovely new homes - perhaps their second or third home. They are quite comfortable financially. But a lot of the people who are buying new homes in the developing areas of Canberra are young couples who are doing it pretty tough. They scrape together just about every dollar they can muster to get that deposit. They go to the bank or building institution - Mr Stevenson will probably have something to say about that later on today - and get the maximum loan that they can, and they just move into that house.

If you drive through those new suburbs, as many of us have done - the very frontier of new development, where young couples are going into new houses at the affordable end of the family house market - you will see, in many cases, that the windows are protected by sheets. People have stretched themselves to the point that they can get those bricks and mortar and move in. Curtains are very

important energy conservation factors. Something like 14 per cent of energy loss actually goes through windows. People are putting up sheets for a while because they are that stretched. In six months' time you will start to see curtains go in. People get a little on top of things and they gradually improve. The point I am trying to make is that people really are stretched to the limit when they go into these houses, and any additional cost is something that we need to be very careful about.

The Government has taken the view that it is sensible to make it compulsory to have insulation in walls and in inaccessible ceiling areas. Wall insulation is something that you can do very easily and comparatively cheaply when the house is going up. In the typical brick veneer house, when you are at the frame stage it is very simple to strap in fibreglass batts, put on aluminium foil and then put the brickwork up and fix the gyprock on the inside. It is very easy to do it comparatively cheaply then. It is virtually impossible to do it when the house is up, although there are some companies that provide a technology whereby they pump fibreglass into an existing wall cavity and do some drilling to make sure that it goes right through.

We think that it is sensible to make it compulsory to have insulation at the appropriate Australian standards in wall cavities of new houses. The Government has achieved that by regulations made on 3 December and which were tabled in this place on 17 December. We have also agreed that it would be sensible to make it compulsory to have that type of insulation material in inaccessible roof and ceiling areas. In a flat-roofed house, or a flattish-roofed house with very little ceiling space, a cathedral ceiling, where there is very little space between the interior ceiling and the exterior roof, we think it is sensible to make the insulation compulsory. But in the standard house with a large ceiling area we do not think it should be compulsory at new construction stage.

The young couple that move into that house with, under our regulations, the now compulsory wall insulation, which does add some hundreds of dollars to the cost of the house, will, after a few months, put sufficient cash together to put up appropriate curtains and that type of material. That will probably be their first item, and it has a significant energy saving. Perhaps a year or a couple of years down the track they will be in a position where they can put fibreglass insulation in the ceiling. In the conventional ceiling it is not a particularly difficult task. People can do it themselves - it is common to see ads on TV for the various coloured batts at the various hardware or do-it-yourself stores around Canberra - or they can get somebody in to do it. It is not a terribly difficult task.

We think that the sensible balance here is to make wall insulation compulsory because it is very expensive to do it other than at construction stage. Our estimation is that that would add some hundreds of dollars. The initial cost of putting fibreglass batts in walls on a 100-square-metre brick veneer house in the ACT, on the information that I have been given by my Building Control people, would be about $500. This is for fibreglass batts, thermal resistance R1.5, installed in the walls. The initial cost of putting that in is about $500. It represents an energy saving of about $120 a year. There was a suggestion somewhere that you could recoup the cost in a year, but it takes a little longer than that. There is no doubt that in three or four years you would recoup the cost, and we think that that is a sensible requirement.

The initial cost of putting the batts in the roof is higher because it is a larger area. That is about $1,100. Again you get a good recoupment of savings - about $280 a year. The cost is recoverable in about the same period - three to four years. But it is a significant additional cost to the new home buyer, and one that we think is not justified to make compulsory. We would prefer to allow the new home buyer to do that a couple of years down the track when they are a little more financially secure. The modification to the building code that we put in place by regulation on 3 December, and tabled in this place on 17 December, does just that. That came about as a result of quite considerable discussions between Mr Wood, who is responsible for planning and building approval matters in the ACT, and me as I am responsible for the Building Control section.

Mr Wood has announced a range of initiatives in the ACT in relation to promoting more energy efficient houses. It is a goal of this Government not just that we have better insulated conventional houses of the styles that have been traditionally built in Canberra but that we have energy efficient houses. We have houses like the house down at Banks that a number of members went to see opened - the ACTEW energy efficient model house. There are the houses that the Housing Trust is putting up in Gungahlin, embracing heat wells, extensive use of passive solar materials, and brickwork of a different style to give long-term savings in energy to the tenants. There has been Mr Wood's announcement about a rating system for houses, so that consumers can easily see whether the style of house that they are being shown by a builder is energy efficient in the long term. All of those initiatives are moves in the right direction.

Mr Moore's proposal is clearly a move in the right direction. It is right for governments to say that there are cases where you should go beyond just encouraging better energy efficiency and make it compulsory, but we do not think it is necessary to do it by legislation. It can be done by regulation which is tabled in this chamber. We do not think it is necessary to make full insulation compulsory at new construction stage. It makes a lot of sense to make the insulation of inaccessible areas such as walls and inaccessible ceiling areas compulsory, and that is what we have done.

We think it is appropriate to impose that burden on new home buyers but leave the additional burden of the ceiling insulation as a non-compulsory item, in the hope that new home buyers, when they become a little more financially secure a few years down the track, will invest in energy saving ceiling insulation. There is no doubt that the investment of that $1,100, on the model that I have for the 100-square-metre brick-veneer house, giving a saving of $280 a year on energy costs, is a sensible investment for home buyers to make. It will recoup very big savings for them over the years. It is a decision that they can make when their finances allow it, and they can either install it themselves or get a tradesperson to do it.

Madam Speaker, we are not supporting Mr Moore's Bill - not because we do not support the policy thrust of more energy efficient houses, not because we do not think that the Government should make certain forms of insulation compulsory, but because we think that we have struck an appropriate balance by the regulations that we tabled in this place on 17 December.

MR STEVENSON (11.22): Madam Speaker, as someone who has worked in the insulation industry, I can agree with a lot of the points that Mr Connolly - - -

Mr Connolly: Not Mr Fluffy?

MR STEVENSON: No, not Mr Fluffy. One of the major points that Mr Connolly made is that the cost of the house will increase if ceiling insulation is compulsory. The reason why wall insulation should be compulsory and why insulation of cathedral ceilings or other inaccessible areas should be compulsory is that, for all practical purposes, you cannot do anything after the house has been built. Certainly, in a cathedral ceiling, if there is a 4-inch gap you can pump it in, but it is not necessarily an ideal situation. Normal ceiling insulation can be easily put in at a later time.

Mr Moore put down a number of points on a sheet of paper and I would like to mention some of them. He says, first of all, that there will always be better things to spend money on - carpet, et cetera - before insulation, and therefore there is no guarantee that insulation will be installed. That is true, but only in a very small number of cases. What you find is that the people marketing insulation do a very nice job of getting to people in an area where there is not compulsory insulation. We regularly see television and newspaper ads on insulation, and people go out doorknocking to introduce people to the benefit of having insulation. What you find from a practical point of view is that, after a couple of years, the number of homes that have ceiling insulation in non-compulsory areas goes well into the 90 per cent range. The better principle that we could adopt to encourage people to save energy is to suggest that ceiling insulation will do a lot towards reducing their energy costs and, of course, keep the house cooler in the summer. There is also benefit to the home regarding noise.

The second point mentioned is that the argument is one of conservation of energy. The community saves, and the individual saves by recouping that outlay in the first two years. We all save when people use insulation; but let me tell you that in no way, shape or form will it be two years. Not even the industry claims that. It takes a lot longer, particularly for ceiling insulation - in some cases over a decade - to recoup the amount of money initially outlaid for insulation.

The third point was that insulation is cheaper and more effectively installed during building at home loan rates. It is cheaper and more cost-effective. The point is that the cost is spread over a longer period - a 20-year home loan, a 25-year home loan, or so on. That is a valid point. Nevertheless, it does put up the cost of the house. There is one other problem. Usually, in a new home, the home owner gets no choice about what type of insulation they want. This is not the case if it is not compulsory and the home owner looks at the various insulation materials available and makes the choice. I grant that if someone is having a home built they can direct what type of insulation goes in, but this is rarely done. That happens only if they are having their home built and are not buying a spec home. As for insulation being more effectively installed at the time of building, it is only more effectively installed in inaccessible areas like walls. I would agree that it is worth while having compulsory insulation in areas that cannot be insulated effectively later on.

The paper goes on to mention that many installers of insulation have been very concerned about insulation being rendered ineffective by improper installation. I can speak from vast experience that the insulation job is usually far better done by the home owner. The reason is that working in a cramped ceiling - if you have four feet at the highest point you are fortunate - is very difficult. In any sort of a temperature, even in the winter when you need to have your heaters on, if you are doing it in the late afternoon it gets extremely hot in the ceiling. It is a rotten place in which to work. Any number of people have put their foot through the ceiling, including professionals.

Professionals get paid to do the job and they want to get in and out of there in a hurry. What happens at the corners and edges is fairly well known in the industry. In not all but in a large percentage of cases, installers, when they get to the edges of the house, instead of crawling right over and fixing, let us say, batts neatly, cutting them to the right shape of the joists - if you have a look at a ceiling, the joists vary enormously in size - they give the batt a bit of a shove, and hope for the best. I have looked at innumerable insulations in ceilings and I can vouch for the fact that the home owner usually takes the time. He might spend three weekends fiddling around, trying to make sure that there are no gaps. It is understandable that a lot of professional installers do not spend that sort of time in making sure that the job is as perfect as it can be.

The fourth point mentioned on Mr Moore's information sheet says that, whilst effective insulation is not compulsory, cheaper homes will be offered by builders, which will cost the home owner a great deal more in energy costs. I, and I think most people here, would certainly agree that energy saving is a good idea. Not a great deal of energy is lost through a ceiling. It is certainly appreciable, and people should have insulation, but homes without insulation will be cheaper to purchase. That is the major problem that people have. Many new homes that you visit do not have much furniture. I have sat on crates instead of chairs because people did not have the money to buy them. I have seen sheets up at windows. If someone does not have enough sheets, they use newspapers or brown paper. In this economic climate it can be exceedingly difficult to afford the extra money to pay for a house in which insulation has been installed compulsorily as a result of legislation.

All in all, I see that people will use insulation. There is no doubt about it. They will put ceiling insulation in as rapidly as their pocket can afford it, and is that not what we want them to do? When they can afford it they put it in, and they do not hang around. If you go into a new suburb two years later trying to find houses that are not insulated, you do not find many. It is done as soon as they can. They go out hunting bargains. They have the capability of doing it gradually. If they want to put batts in - I would never recommend such a silly thing for anybody to do in their ceiling because of the harm caused by fibreglass - they can buy a bag of batts. If they want to put rockwool in, they can buy a bag and do a part at a time. They can start on the living area, where most energy is generated and lost.

Mr Berry: What about newspapers?

MR STEVENSON: Mr Berry says, "What about newspapers?". He probably means telephone books.

Mr Berry: No, the munched up stuff. You know what I mean.

MR STEVENSON: Yes, that is exactly what I mean. You said "newspapers". I said, "You probably mean telephone books".

Mr Berry: They use newspapers.

MR STEVENSON: I know that they use newspapers. Recently they were talking about munching up used telephone books. I thought it good to highlight that. I thought you would have wanted to highlight the telephone books. Perhaps Mr Connolly, if he had been in his seat, could have given you a quick nudge. Indeed, what about chopped up newspapers? It is called "cellulous fibre", which sounds a lot better than "chopped up newspapers", and it is very well treated with chemicals to make it fire retardant. It solves one of the major problems that you have in ceilings and that I alluded to earlier, and that is gaps caused by batts not fitting. It takes a long time for installers to fit the things properly. One of the advantages of any pumped in material is that you do not get any gaps; you do not get any spaces. In other words, you do the job properly. I think that is another benefit.

It is a benefit for people to be able to choose their own insulation. It is a benefit for them to be able to pay it off as they choose. It is a benefit for them to be able to do a room at a time. All in all, we should not make ceiling insulation compulsory. By all means, insulation of those areas that cannot be done after the house is built could well be compulsory. Once again, like Mr Connolly, it is not that I disagree with the principle of the Bill, but I disagree with the compulsion, particularly for ceilings.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (11.33): Madam Speaker, I will make some brief comments. I will not retrace the ground taken by others about the merits of compulsory wall insulation, as that has been well covered. I want briefly to mention some of the other activity that the Government is undertaking to make our homes more energy efficient. At the outset I might indicate that it has taken - - -

Mr Moore: I raise a point of order, Madam Speaker. Mr Wood is suggesting that he is going to speak on irrelevancies. I hope that you will keep him to the topic at hand.

MADAM SPEAKER: Thank you for your advice, Mr Moore.

MR WOOD: Madam Speaker, I am disappointed to hear Mr Moore say that energy efficiency is an irrelevancy. I think we are all agreed on these measures. The pertinence of the debate may be a matter of some question, but I think that what I am saying is important. Before Mr Moore interrupted, I was going to indicate that I have been disappointed at the time it has taken to turn around some of our trends. The very first step I took on becoming Minister was to look at energy efficiency. I continue to do that now, getting on to two years after my appointment. I have to say that I am still disappointed at what I see when I drive around some of the new suburbs. It is a long process. It seems that we have this enormous battleship and it is taking some time to change that course.

It is the case now that, as developers come to government with their subdivisional design, it is required to conform to new standards of orientation towards the sun - acknowledging those important principles. That is now the case. Any new subdivisional design - we have yet to see houses on these, of course - has blocks oriented, as far as possible, towards the sun. It cannot be universal, of course. We have to take into account the contours of any subdivision. But they are now having to do a great deal better than was formerly the case. I am quite pleased about that because I think that as people come to build on their sites it is going to be easier for them to align their house to the sun and to make use of that cheap energy source.

It is a further step to see that the house is adequately designed. That is something that I am continuing to look at. It seems that it is taking a bit longer to turn that around. At least we can tell developers, when they come in, that their plans have to be a certain way and they will not be approved unless they are. Home design is taking a little longer. We are educating the public. More and more people are indicating that they want a passive solar house, and we can see advertisements in the paper promoting them. I am not always sure that the houses are particularly good in that respect, but certainly there is a change.

Shortly I will be bringing into this Assembly some tougher guidelines about house design, and the design and siting approval that needs to be given. At present we are operating under a system of voluntary guidelines. It is interesting to note that more and more I am getting letters from people complaining to me that their design, their plan, has not been approved simply because it is an inadequate design for that block of land. I welcome those letters, I suppose, now and then. They may have a justification because sometimes the requirements of the subdivision are difficult to accommodate to the passive solar design.

There is a turnaround, but I am still disappointed at the number of builders who seem to have no concern about where the sun is. There are too many who are building quite efficient homes - they are probably cost-efficient; they have been doing it for a long time - but who do not want to change. If we cannot change the builder, then I hope to continue the education of home buyers so that they are determined to buy a house that suits the level of sun we get in Canberra and the level of cold that we experience. Those two factors together make it imperative that we get a better house design.

These are matters that I will be raising again in the Assembly in the near future. I will bring in those guidelines. I look forward to discussion of them. I am discussing with the chair of the PDI Committee the extent to which we can have it mandatory in the new Territory Plan that these and other principles apply. I will make them as strong as I can in order that we get the benefits. It is to the longer-term community benefit, to the benefit of the whole of the ACT, and a recognition of our world responsibility, that we use a little less energy relative to the rest of the world in designs and urban planning of this nature. We are playing our part there. It is important that we do so and it is important that the end result be more comfortable homes for the people who live in them.

MR DE DOMENICO (11.40): Madam Speaker, the Liberal Party, once again like the Labor Party in this case, is totally in agreement with the policy goals as expounded by Mr Moore. There is no denying that. But, like the Government, the Liberal Party will not be supporting Mr Moore's Bill.

Madam Speaker, perhaps the three words that stand out in all that members have said on this issue are "education", "regulation" and, perhaps most importantly, "awareness" - an awareness by the ACT community about the benefits of insulation. I think that there is no denying that successive governments, and in particular this Government, I must admit, have done a lot to educate the community and the industry about the benefits of energy efficient homes. The Government needs to be congratulated on that point.

The industry supports the mandatory insulation requirements in areas which, after the house is built, are inaccessible, like walls and flat roofs. Going for walls, floors and roofs is a case of overkill, the Liberal Party believes, and it removes a significant element of individual choice from both home owners and builders. The Liberal Party's decision is based on the fact that making it mandatory to totally insulate homes would add significantly to the cost and therefore make housing out of the reach of many Canberrans. I think Minister Connolly quite adequately put that point of view to the Assembly this morning.

Madam Speaker, the right of every person to live in a warm, insulated home and the energy savings of insulation must be balanced, we believe, with the wider issues, like the added cost of building a house, which directly impacts on people entering the housing market. Once again Mr Connolly did point out very eloquently the fact that there are a lot of people out there, in Tuggeranong especially and in Gungahlin also, who have sheets on the windows. Mr Stevenson mentioned newspapers. I recall, from many years ago, when we first came out to Australia, the detergent called Bon Ami, which you would rub across the window so that you could not see through it. Basically, what we are talking about is a trade-off or a compromise, and we believe that a trade-off or any compromise makes sense.

The Liberal Party feels that people would be better served by giving them insulation in the inaccessible walls and ceilings and leaving the insulation of floors and accessible ceilings to the individual. Then people can have the house of their dreams with insulated walls, and can save up for insulation in other areas as they can afford it. We believe that that is simple and that it is commonsense. The Liberal Party also feels that it is a balanced compromise between increasing housing costs and providing people with more efficient insulated homes. Who are we, Madam Speaker, to decide where people will spend their housing dollar? Some people will say that carpet is a bigger priority and will spend $1,000 or more on carpet first. Next year the insulation is or may be a viable option. We are not discouraging people from putting insulation in; we are just advocating that people should be given a choice.

This small step, bringing in mandatory insulation in walls, may well lead to people looking at insulation issues when building and deciding that while they are doing the walls they may as well do the floors and ceilings. I think Mr Stevenson quoted some figures. On consulting with people like the Housing Industry Association and some insulation companies - I note that Mr Wood opened Just-rite in Mitchell - they all confirm the fact that there is a lot

of demand from people for insulation in ceilings. Once again I put that down to the fact that the Government has had an ongoing education campaign to the people of the ACT about the benefits of insulation and also, I think, the regulations that the Minister put forward to this house, I think, in early December and which came into being on 17 December. Amending the building code is the way to go.

What is important is that people be given the choice and that housing prices be kept to a reasonable level so that the widest possible range of people have the opportunity to buy or build their own home. Bringing in mandatory insulation in walls will begin to make people more conscious of the energy savings to be made. Once again, in summary, Madam Speaker, let us give the individual and the industry the responsibility and the opportunity to decide on the insulation issue before we, in one fell swoop, force housing prices up yet again and out of the reach of many Canberrans. As I said, education is an ongoing thing, and the Government needs to be congratulated on its education measures. I believe that the ACT has the best education program and the best building code regulations that there are in this country. I must admit that the intelligence and the awareness of the community in the ACT, based on the fine education program and the fine regulations which are put in place, will mean that the majority of people will eventually be putting in roof insulation anyway, when they can afford it.

MS SZUTY (11.45): Madam Speaker, I support Mr Moore's Building (Amendment) Bill (No. 2) 1992. It is unfortunate that I am the only member of this Assembly who seems to be supporting Mr Moore's initiatives on this matter. I am supporting the Bill on the ground that legislation of this kind is well overdue in Canberra. In 1977 the National Capital Development Commission identified the need for insulation in dwellings in its report "Low Energy House Design for Temperate Climates". That report demonstrated the best orientation for houses, which is a northern orientation, and detailed the measures needed to make ACT housing more energy efficient. These include measures to reduce heat loss through walls, floors and ceilings. The Government has drafted energy guidelines which include ratings for insulation materials recommended for floors, walls and ceilings.

Mr Moore, in his opening statement in presenting this Bill, described some of the heat loss, a loss which Canberrans living in dwellings with inadequate insulation pay dearly for each year. Energy costs are a major expenditure outlay for householders in the ACT - a fact that has been widely acknowledged by the Government. If we can make our housing more energy efficient at the construction stage, we take advantage of a window of opportunity to obtain future energy efficiency at the least cost.

Legislation which requires insulation to be installed in dwellings initially may, in fact, add to the cost of purchase for home buyers. However, it will reduce home buyers' ongoing costs in the future. Financing institutions also respond to the particular requirements of State and Territory governments, and property values in their areas of operation. I am sure that, by adding a few hundred dollars to a mortgage for such a worthwhile purpose, insulating homes to save money on fuel bills will, in the end, be also cost-efficient.

In Canberra 60 per cent of the calls to welfare agencies in winter are for assistance in paying fuel bills. CARE, in its "Cold Comfort" report of 1986, identified Canberra as having the longest, harshest winter conditions of any urban setting in Australia. After last year's winter conditions and the early onset of cold weather this year, no-one could argue that point. The Smith Family estimates that it costs an extra $800 a year for heating and other energy driven needs in winter. A 1985 study showed that the proportion of income spent on energy tends to be greater for low income families - families who cannot afford to make the transition to more energy efficient forms of heating and end up crippled financially by high energy bills.

Mr Moore: These are the people this Government will not support.

MS SZUTY: That is right, Mr Moore. Mr Moore interjects and says that these are the people the Government is not prepared to support, and I would agree with him. Home buyers, as they enter into new mortgages, or first mortgages, are usually financially stressed. It makes no sense to expect them to then pay the added costs of heating an uninsulated house. It is often the case that they also cannot afford adequate curtaining and window covers, leading to the familiar sheets as curtains hanging in the windows of new estates, as Mr Connolly mentioned. It would be much more efficient to give new home buyers the means to pay the cost of energy efficiency over time, as part of their mortgage, than to make the running costs of their home higher than necessary.

In fact, a couple of government initiatives in recent times have promoted energy efficient housing, particularly at the construction stage. The Government has built two demonstration homes in Gungahlin, at an additional cost of $25,000 on an average Housing Trust home, to determine the future direction for energy efficient public housing. ACTEW also has opened an excellent display home as an example of energy efficient living for people thinking of building a new home. That house at Banks uses R2 rated batts in the walls, R3.5 in most ceilings, and R4.5 in its specially designed arched roof. In fact, an ACTEW brochure entitled "Energy Conservation in Housing" also recommends that an R2 rating insulation material be used in walls, and R3.5 in the ceiling.

Mr Moore's Bill sets out a comprehensive list of ratings for insulation, depending on the location, materials used, and type of insulation. It is appropriate that this level of recommendation be carried into legislation, as poor insulation is often only marginally better than no insulation. The Government's announcement last year, on learning of Mr Moore's Bill, that insulation in the walls of newly constructed houses would become compulsory, recommends only a minimum rating of 1.5. Its own energy guidelines recommend 1.7, and ACTEW recommends 2.0. The Government also proposes that inaccessible ceiling spaces be insulated, but the test is whether, after construction, these spaces would be inaccessible.

Madam Speaker, that standard is not good enough and does not recognise the failure of the building industry to introduce insulation and solar orientation as standards for all housing. The Minister for the Environment, Land and Planning, Mr Wood, has already lamented on more than one occasion - he did it again today - the proliferation of north facing garages in new developments.

It is obvious that the commonsense measures that need to be taken are not being addressed because the less energy efficient option generates the most profit and the line of least resistance is the easiest path to follow. This Bill seeks to put energy efficiency back on the agenda, with a clear message that it is no longer acceptable to ignore all the best advice of government advisers and environmentalists. Canberra is also taking a great interest in the development of urban design guidelines and has given some commitment to AMCORD guidelines for residential development. AMCORD's sister model code, AMCORD URBAN, cites the need for insulation in the energy efficient house. While it recommends only a minimum rating of R2.0 for ceilings, its performance guidelines state that "building materials and insulation are selected to assist thermal performance".

It is universally recognised that there is a need to provide better insulation and thermal performance results from housing as one component of a greenhouse emission strategy. If the Government is serious in its aim to reduce greenhouse gases, making Canberra a more energy efficient place, and providing its residents with a high quality of life, then it has to get serious about energy conservation. If the industry will not lead, then it is the prerogative of the Government to do so, and, if the Government is reluctant, other members of this Assembly must identify needs and respond to them. Madam Speaker, this issue needs addressing in a positive and meaningful way, and I am pleased to support Mr Moore's amendment Bill to make insulation compulsory and effective.

MR MOORE (11.51), in reply: Madam Speaker, it was a refreshing change to hear an intelligent and well-prepared speech from Ms Szuty compared to the - - -

Mr Connolly: I take a point of order. Ms Szuty often gives such speeches, Mr Moore. You should not be so critical of your colleague.

MR MOORE: Madam Speaker, the interjection from Mr Connolly is affective and reflects the same approach that he had to his speech. He knows quite well that the lack of preparation refers to his speech, to that of Mr Wood and to those of other members. What they failed to do was to see anything other than a black-and-white solution.

The interesting point about the Bill is that, even before it has been debated at the in-principle stage, some of its purposes have been achieved. Madam Speaker, it is not within the power of any member other than a Minister to make regulations. I had heard Mr Wood on a number of occasions say, yes, he would do something about insulation and, yes, he would do something about energy efficiency but it would take time. In his speech we heard him use the word "time" some six, seven, eight or nine times, Madam Speaker. Out of sheer frustration, I felt that the only way I could try to get something done in this matter was to introduce legislation. In fact, I gave drafting instructions some two or three months before the Bill was tabled in November. Mr Connolly pointed out that it was on 3 December that the regulations were announced. They were gazetted on 17 December last year, some month after my Bill was tabled. That having occurred, Madam Speaker, I had achieved some of my aim in tabling this Bill.

That is emphasised, Madam Speaker, by the fact that this is an unusual Bill - I was surprised that Mr Connolly did not take the opportunity to comment on this - in that it has a Henry VIII clause in it. In other words, it establishes power and then hands the power back to the Minister to vary the regulations.

There was a comment on that from the Scrutiny of Bills Committee that said that it is valid in this instance because this is the only method that a member has to change regulations. I felt that, as the Schedule could still be changed by the Minister, it was in fact reasonable, but at least we would have some action.

Interestingly enough, Madam Speaker, in the responses from Mr Connolly and from Mr Wood there was no comment on the third part of the Schedule on page 3 relating to the insulation of floors. Floors also are an awkward area to insulate. If you were going to accept the arguments put forward by Mr Connolly and Mr Wood, certainly with reference to concrete and masonry floors on the ground, you would expect that they would at least have made regulations in line with what is suggested in my Schedule or, failing that, move an amendment to this Bill. Similarly, Madam Speaker, with the Liberals, who say, "Yes, we support this in principle". They ran through the same arguments, and Mr Stevenson did as well; but they were not prepared to move an amendment to remove the area that they objected to - the roof and ceiling, and I will get to that in a minute. I feel that either there was not much attention paid to looking at what was involved in this Bill or, by and large, the Minister felt, "No, it is all right; we will do this and we will look after it". Madam Speaker, if the Minister would look after it we would be happy, but it has taken so long. As the Minister admitted, in a very casual way, he just has not been doing the job on this.

The Labor Party at the next election, no doubt, will attempt to appeal to the environment movement and say, "Look at all the wonderful things we have done". I will go back and I will say, "Yes, but you voted against compulsory insulation of ceilings". I think that people who are interested in the broad environmental concepts understand the importance of such a move. The response that Mr Connolly provided, and to a lesser extent, Mr Wood, because he recognised what Mr Connolly had pointed out, was that this is going to be much too expensive for young people trying to buy a house; that it would put up the price of a house by some $1,000. I think $1,100 was the figure he used. Of course, Madam Speaker, that is totally false economy.

I would like to reiterate some of the points that Ms Szuty made. First and foremost, there would be the benefit of scale. In the vast majority of cases we are talking about spec built houses - some 75 per cent of houses in Canberra. Builders have the advantage of benefits of scale to reduce those prices. That is a starting point. More importantly, if this $1,100 were financed as part of the mortgage, that would make the insulation much more accessible to people with less money and would give them lower interest rates. They lose the saving advantage in about four or five years.

People who are struggling to buy a house in that way are highly unlikely in three or four years to have that sort of cash on hand to be able to buy insulation. Effectively, Madam Speaker, they will be borrowing the money. They will be borrowing for that or they will be borrowing other money for the car. The effect will be the same. That being the case, it will mean that, instead of borrowing the money at mortgage interest rates, they will be borrowing it at much higher interest rates. People who can least afford it will be forced into a situation, in terms of their own savings for heat loss, Madam Speaker, of buying insulation at

a much more expensive rate, and they will not be able to put that cost over the 20 or 25 years of the mortgage. That is an appropriate response to the issue raised by Mr Connolly and by Mr De Domenico. They have looked at it in black and white, or at a very surface level, and have been taken in by an immediate gut reaction which is based on false economy.

Mr Stevenson's argument - it was echoed somewhat by Mr De Domenico - does carry some weight; the argument that says, "We are not prepared to make it compulsory and will allow people to make their choice". I accept the strength of that argument. There are points at which we, as a community, are prepared to restrict choices for the benefit of the whole community, for the benefit of the people. In fact, it is not so much the people who are buying the houses that have the choices; money has restricted their choice already. This Bill was intended to set up a situation where the spec builder had no choice. If the spec builder has no choice and the insulation is in place at the time people go around to look at houses, they are still comparing one house with another, and, as I pointed out before, the insulation is part of the construction and as such is part of the mortgage.

Madam Speaker, I find it disappointing that I do not have support. I would not have found any difficulty had the Government, for example, decided to modify the Bill, or to come back to us and say, "There is no need to pursue this Bill; we will do what you are suggesting under regulation". I would encourage the Minister responsible to look at the insulation of floors in particular, the section that Labor has not commented on at all. Members of the Government should get off their bottoms. It does not have to take such a long time, Mr Wood - two years, or whatever you are talking about. The Government could put into regulation a compulsion in terms of the necessary R values for floors as well as for walls. To do so would be consistent with the arguments that you have presented.

Minister, in listening to the response here, even though this Bill fails today, I ask that you reconsider your approach in terms of the economics and how you can benefit young people who are buying houses. Consider also the benefit to the community as a whole in terms of energy usage, in terms of greenhouse effect, and take into account the issues raised to date. Reconsider your perspective and perhaps achieve the same goals by regulation, which is the most effective way to do it in the first place but is not a method available to members of this Assembly.

In summary, Madam Speaker, whilst people have indicated that they will vote against this Bill and that it will fail at the in-principle stage, I hope that the debate may bring about a reconsideration of some of those ideas, particularly when you take into account the very sensible words of Ms Szuty and the points that I raised, both in tabling the Bill and in response to issues raised by members.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 2	*NOES, 13*
Mr Moore	Mr Berry
Ms Szuty	Mrs Carnell
	Mr Connolly
	Mr Cornwell
	Mr De Domenico
	Ms Ellis
	Ms Follett
	Mrs Grassby
	Mr Humphries
	Ms McRae
	Mr Stevenson
	Mr Westende
	Mr Wood

Question so resolved in the negative.

CRIMES (OFFENCES AGAINST THE GOVERNMENT) (AMENDMENT) BILL 1992

Debate resumed from 18 September 1992, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.05): The Government is not supporting this amendment Bill by Mr Moore. Mr Moore's proposal was probably triggered by the widespread publicity surrounding the issue of certain documents that were acquired by a certain metropolitan newspaper and certain consequences that followed. In the high state of agitation in the media following those events, Mr Moore tabled this legislation.

His claim in the introduction speech that the existing law in the ACT was an Act merely "put together by bureaucrats with the intention of looking after themselves and their power structures" is a rhetorical claim which really is hard to justify. The simple fact, Madam Speaker, is that this type of law is found in governments around Australia. The Crimes (Offences Against the Government) Act was enacted by ordinance just before self-government as part of the package of self-government legislation that was seen by the Commonwealth as necessary to provide this Government with appropriate protections for its information and property, just as State governments around Australia have similar protections. I am not aware of any State government, whether it be Labor, Liberal or National, that has taken the view that it is inappropriate to have this type of legislation.

This is not the type of legislation that ensures closed government in the sort of rhetoric that Mr Moore might want to employ. We have a Freedom of Information Act and information can, provided it meets the criteria of that Act, be released.

Mr Moore: Look at what it costs.

MR CONNOLLY: From time to time we make exemptions for members in the public interest. I checked recently with the office of the New South Wales Government that is responsible for FOI and asked whether they ever made exemptions for members of parliament on public interest grounds, and I was told that, no, they never have.

Mr Stevenson: Did you check with Victoria?

MR CONNOLLY: Under a Liberal government the Victorians are about to abolish their FOI regime, and the Liberal Government in New South Wales never gives exemptions. So you people opposite really should look at what your colleagues are doing elsewhere. The simple fact that you have secrecy provisions does not mean that you necessarily have closed governments. Many Acts of this Assembly have specific secrecy provisions - the Community Advocate Act, the Health Services Act, the Legal Aid Act, the Occupational Health and Safety Act.

Indeed, a private members Bill that was introduced and passed by this Assembly only last year had a secrecy provision. That was the Epidemiological Studies (Confidentiality) Act - a private members Bill introduced by none other than Mr Moore. So, while Mr Moore puts forward a Bill, in the heat of public controversy about documents leaked to the *Canberra Times* and fuming editorials from the *Canberra Times* about the need for open government, and makes lots of rhetoric about open government, he has to acknowledge that when there is an area he is particularly interested in it may be necessary to have secrecy provisions.

The fundamental difference, he would say, is that the Epidemiological Studies (Confidentiality) Act is protecting information relating to private people, not the Government's information. So is this Act. This Act is protecting rating information, all manner of data that is collected by governments relating to individuals, and it is saying that bureaucrats, people who work for the Government, have a duty to protect that information. It can be made available under the Freedom of Information Act and other provisions, but bureaucrats, or anyone else for that matter, cannot take it upon themselves to take government information and disseminate it to whomever they want to disseminate it to.

That is not to say that one will always conduct criminal proceedings when information finds its way into the hands of journalists, but I think that all members, when they think about this, would acknowledge that there is a need for this type of protection. For example, an ill-advised criminal officer in Mr Wood's department - not that there is any such person - could, by being employed in certain areas of the department, make a very large sum of money by selling to developers information that they came across in the course of their work. An officer in my Housing Trust could potentially enrich himself by selling material to developers. Again there is no evidence that this sort of thing happens.

We prosecute for fraud when we need to in this Territory. Members would accept that officials, in the course of their duties, come across information which, if it were sold or disseminated to other people, could be used to enrich themselves. All governments have traditionally had provisions which protect that type of information.

The Official Secrets Act is probably the wellspring of this type of provision - the old British Act which is so widely referred to in John le Carre spy novels and the like. That basic provision - that officials have a duty to protect the information that they come across in the course of their duties, and that the criminal law can intervene to protect that material and to create an offence in relation to the illegal dissemination of government material - is a fairly essential item that governments need in their armoury, not to protect, as Mr Moore says, public servants from scrutiny, but to protect the public interest so that people do not improperly use official information for misgain.

Open government is a principle which we would all accept. Freedom of information legislation has directed a significant change to the process of secrecy in government in Australia, but it needs to be done through the format of that legislation. Material which can be made available under the FOI Act is made available, but no-one suggests that FOI means open slather; that any government official can willy-nilly produce all sorts of documentation. Mr Moore accepts the principle himself when he introduces legislation in this Assembly to deal with an area of particular interest in relation to epidemiological studies. He accepts in the Bill that he presents that there can be a need for a secrecy clause, but he produces this general assault on what he says is secrecy in government, and legislation which he says in his introduction speech is designed to protect public servants.

The provisions of the Crimes (Offences Against the Government) Act are not designed to protect public servants; they are there to protect the public interest, to ensure that officials do not corruptly conduct themselves or enrich themselves by selling, trading or otherwise dealing with secret government information. With the use of the word "secret" one often tends to think of national security interests and the sorts of documents that would be floating around Foreign Affairs and Defence. Of course, we do not have that sort of documentation in the ACT. What we are talking about here is more the type of commercial material that officials in a range of our agencies deal with every day, and, if it were not for provisions like this, you would have the risk that people would corruptly and illegally sell that material on the open market and enrich themselves. You can perhaps get people under general corruption provisions for that type of conduct, but the fact of a provision making it an offence to disseminate official information is part of the armoury that governments across Australia have for themselves, and a provision, Madam Speaker, which I would recommend all members think very hard about before looking at change.

These types of provisions have not been altered for many years - I would acknowledge that - and our provisions are modelled on the Commonwealth provisions. The Gibbs committee, which was established by the Commonwealth some years ago to review Commonwealth criminal law and was chaired by the former Chief Justice of Australia, has made some comments about the way the Commonwealth secrecy provisions operate and has made some suggestions for reform. The Commonwealth is currently looking at implementing those Gibbs committee recommendations. My understanding is that governments around Australia with similar provisions also have that in mind. I would expect

that at some point the Government, when we see clearly what the Commonwealth is doing, will be bringing forward some reforms of our own to clarify these secrecy provisions. While I think that is appropriate, it is not the Government's intention to pre-empt what the Commonwealth does - we would like to see developments in this area - and it is certainly not appropriate to simply abolish the secrecy provisions, as Mr Moore would have us do. Similarly, the provisions relating to stealing with the Government - - -

Mr Humphries: Stealing from the Government.

MR CONNOLLY: Yes, stealing from the Government. Did I say "stealing for the Government"?

Mr Humphries: "With the Government".

MR CONNOLLY: Mr Humphries, thank you for correcting my grammatical slip. The provisions relating to stealing with the Government - - -

Ms Ellis: With the Government?

MR CONNOLLY: Did I say it again? It must have been the picture in the *Canberra Times* this morning of Senator Schacht jemmying the door. The provisions relating to stealing from the Government are provisions which tend to be found in similar Acts. While it is true to say that you could dispense with this and just generally deal with a government officer who steals from their employer in the same way as any other officer, it is significant that there are some difficulties with penalties. Strangely, the Act here says seven years, whereas the general theft provisions go for 14 years. This again is a section which most governments across Australia have. It is essential that we protect government property from theft by individuals, either working for the Government or not.

We take these matters seriously and from time to time you will see in the courts of this Territory prosecutions being brought against individuals who go out and steal or otherwise grab hold of public assets. I am sure that all members would expect that the Government should be vigilant and prosecute people who seek to steal public property. Removing this provision would in no way assist, and could, if anything, weaken our armoury to protect the public interest. Again, we are protecting the public interest here. These are not provisions that somehow are there to protect the Government or to protect public servants, as Mr Moore said in his introductory comments. These are provisions to protect the public interest, and I would suggest that members think very hard before going in with this broad brush approach. Reform of secrecy provisions is something which is on the agenda around Australia, and I expect to see some changes; but abolishing that general protection for government-held information could give rise to quite serious consequences and could be seen as almost a green light for public servants to improperly trade in or deal with information that comes across their desks.

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

Sitting suspended from 12.17 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Enterprise Bargaining

MR HUMPHRIES: My question is to the Minister for Industrial Relations. I was going to ask how much the Government had to promise to get the lights put back on. Instead, I ask, and the question concerns enterprise bargaining: Is it not true that the ACT Government's policy on enterprise bargaining is to provide a durable system for the public sector as a whole?

MR BERRY: Yes.

MR HUMPHRIES: I ask a supplementary question, Madam Speaker. I ask the Minister how this policy, therefore, compares with the Federal Labor Government's enterprise bargaining policy, which supports individual agreements in each enterprise? Is the Government concerned about the inconsistency between the Federal and ACT governments' policies?

MR BERRY: No. This is very clearly a mirror agreement of the Federal Government's policy for agreement with unions.

Health Budget

MS ELLIS: My question is directed to the Minister for Health. The Liberals claimed on radio this morning that the ACT Health budget was overrun by $10.2m in the first half of the financial year. Is there any basis to this claim?

MR BERRY: Madam Speaker, this is another part of what I would describe as the malicious misinformation campaign that is being run out there in the community about health. Mrs Carnell knows a lot about this because she heads it up. The claims were based on a question asked yesterday and which was answered by the Chief Minister. Her answer made very clear what was going on in health finances and the reasons for that. For Mrs Carnell quite deliberately to misinform the Canberra community about what the Chief Minister had said, in my view, is reprehensible. How can you run a health system in the ACT when it comes under that sort of wrongful antagonism by the Liberals? I know that they do not like the public health system. I know that they hate Medicare; they hate it mostly because it works. What we have to do is to ensure that the people of the Australian Capital Territory are fully aware of where the Liberals, and Mrs Carnell in particular, are coming from.

Those figures that were provided yesterday made it clear, and the Chief Minister made it clear, that we have a health system that is under some stress. We have a health system that is now providing more services to more people than it did last year, and that costs more money. That is why it is costing more than was budgeted for. They are the very simple answers that go with this. It is not good enough to go out there and give a selective part of the answer, with selective misreporting of the matters that were drawn to your attention yesterday.

It was clearly drawn to your attention that there were differences between the Treasury documents and the Health documents, and that there were good reasons for those differences. It was quite wrong of you, Mrs Carnell, to go out there this morning and say - - -

Mrs Carnell: Your figures, Mr Berry.

MR BERRY: No, I am sorry; it was quite wrong of you to go out there this morning and say that there was a $10m blow-out in the health budget, when you know full well what has been reported for the six months. By the end of the year, that $4m figure will grow because we will continue to treat ACT and south-east region residents. We will at the same time continue to try to rope in the extra costs that are occurring in the health system. That will mean that we will have to ask our employees to be more scrupulous about the way we provide services and to make sure that, wherever there are efficiencies, those efficiencies are carried through.

Mr Moore: Annette, ask him a supplementary question. Is the blow-out $4m, $6m or $10m?

MR BERRY: Mr Moore interjects with some smart alec remark.

Mr Moore: It was not smart alec. I was just asking: Is the blow-out $4m, $6m or $10m?

MR BERRY: It must be new, then. You have done something new, then - not made a smart alec remark. So there we have it, Madam Speaker - a campaign of misinformation.

Mr Moore: What is it - $4m, $6m or $10m?

MR BERRY: No, it was $4m around Christmas time, and it will be nearer to $10m by the end of the year, if the predictions are right.

Mr Moore: So Mrs Carnell was right.

MR BERRY: No, she was not, because Mrs Carnell said that it was $10m for the half-year. That was absolutely untrue and designed to misinform. She was clearly informed by the Chief Minister yesterday what the real picture was. There has never been any secret about the overspending that is going on in health and the extra people we are treating. To say that there has been is an outrageous fib.

ACTEW Enterprise Agreement

MR CORNWELL: My question is addressed to the Minister for Industrial Relations. I am interested to hear him talking about efficiencies in health. I ask: Is it not true, Minister, that an enterprise agreement approved by your colleague the Minister for Urban Services, Mr Connolly, would save ACTEW at least $500,000, that is, half a million dollars a year, if implemented - efficiencies, in other words? Why do you oppose this agreement?

MR BERRY: Nobody is opposing an agreement. What has occurred is that Mr Connolly has instructed ACTEWA to inform the Industrial Relations Commission that at this point they are not ready to proceed with an enterprise agreement between themselves and the Electrical Trades Union, or whatever its new name is, which includes the plumbers. That information has been conveyed to the Industrial Relations Commission. The Industrial Relations Commission, on my recall, has said that they want a response from ACTEWA in relation to the matter by Friday.

In the meantime, the issue of that agreement fitting in with the mirror agreement we agreed to for the rest of the ACT Government Service will be discussed between industrial relations officers and ACTEWA. What we are saying is that we have promised the unions associated with the Government Service in the Territory a mirror agreement. Fifteen unions signed in December last year and subsequently went on board with the agreement. A number of unions did not. The ETU was one of those, and the ETU sought to negotiate another agreement with ACTEWA. For practical purposes, all that has happened is that that agreement is being tested against the mirror agreement, and there will be a report to the Industrial Relations Commission in relation to that on Friday.

There have been some claims about savings, but what we have to do is to preserve across the government sector - not just in one area, but across the government sector - an agreement we reached with unions concerned with public sector employment in the ACT. We reached that agreement in good faith and we intend to stand by that agreement. We intend to ensure that, where agreements are reached on an organisation by organisation basis, they meet the general commitment we gave to those unions on the mirrored public service agreement.

MR CORNWELL: I ask a supplementary question, Madam Speaker. Mr Berry, in your answer you indicated that Mr Connolly had directed ACTEWA. I would be interested to know whether that was a directive under section 37. Further, you are quoted in the paper this morning as saying that if unions start demanding separate agreements - - -

Mr Berry: Is that me?

MR CORNWELL: You, yes - "Mr Berry said potential savings touted for the ACTEW-ETU agreement would be offset by costs across the whole service if all unions started demanding separate agreements". What extra costs can you foresee?

MR BERRY: You cannot. I do not have a crystal ball.

Mr Cornwell: Then how can you make the statement?

MR BERRY: If you would wait and listen for just a moment, I will tell you. The success of this wages system will be judged by the Government's ability to deliver it and by the commitment of the trade union movement to it.

Mr Cornwell: Which part of the trade union movement?

MR BERRY: We have already said that 15 unions have signed on the dotted line and are part of that agreement, and some are not. Others are negotiating with a view to being part of that agreement. Each one of those arrangements will be tested against the overall agreement, and we will ensure that at the end of the day we can say to all of those unions who came on board in the first instance, "We have observed our commitment. We have made sure that all of the agreements reached with other unions who came on later are consistent with the overall agreement". I expect that any instructions that were given to ACTEW were given in accordance with the relevant requirements, and I have no reason to question that.

Mr Cornwell: Directive, rather than instructions.

MR BERRY: Those directives were given in the interests of preserving the overall agreement, on which we have given a commitment not only to the unions here in the Territory who represent Government Service workers but to the people of the ACT. We have said that we have an agreement that we have mirrored from the Commonwealth Labor Government, which is interested in looking after workers in the Territory. We have picked up that agreement and we intend to make sure that it sticks in the Territory.

Mr Cornwell: Under section 37?

MR BERRY: I do not know what you are referring to.

Prostitution Legislation

MR MOORE: Madam Speaker, my question is directed to Mr Connolly, the Attorney-General. I gave him some notice of this question. The Prostitution Act and the Prostitution (Consequential Amendments) Act were gazetted on Tuesday, 1 December 1992. At that stage, section 1, namely, the title of the Act, was commenced. I further noticed, on the tabling of regulations at the beginning of this week, that you were setting a fee for registration under the Act at $50. At what date do you expect the Acts to commence? Will they go to the full six months under the commencement provisions of subsection 2(3)?

MR CONNOLLY: I thank Mr Moore for his question, of which he did give me notice a week or so ago. The Prostitution Act is in the process of being commenced. We have commenced the start of the Act. We have regulations now being made. We have appointed a public servant, Mr Brown, who is the Registrar of Liquor Licences, as the person who will have responsibility for certain decisions under the Act. We are in the process of setting up a committee involving workers in the sex industry to advise on the implementation of the Act. I hope to have the Act in force before the automatic cut-in of the deadline.

Whatever happens, there will not be a situation, of which you had raised the possibility, whereby it would be open slather for brothels in residential areas of Canberra. I can assure you that the process of implementation will be smooth. Whatever happens, there will not be the possibility of people being able to take advantage of a loophole in the law to operate brothels in residential areas of Canberra. The wishes of the Assembly in relation to the regulation of prostitution in this Territory will be brought into full effect.

ACTEW Enterprise Agreement

MR WESTENDE: Madam Speaker, my question without notice is directed to the Minister for Urban Services, Mr Connolly. Did you approve an enterprise agreement which would save ACTEW at least $500,000 a year? Is it a fact that the Government has decided, on the eve of a hearing before the Industrial Relations Commission, to oppose the agreement, despite its having been approved by you? Why has the Government decided to abandon an agreement which would leave ACTEW's customers $500,000 a year better off?

MR CONNOLLY: Madam Speaker, the Government has not abandoned the agreement. It is true that I did sign an enterprise agreement, but the agreement is not consistent with the form of other agreements in place in the ACT. The agreement would have brought significant benefits to the ACT, and still will, in my view. What we are doing, as Mr Berry indicated, is continuing negotiations with that union to get the agreement into a form consistent with the mirror agreement, with the possibility which has always been there for some side arrangements. So the suggestion that this matter is abandoned, finished, lost or opposed is rather overstating the situation.

As Mr Berry indicated, this matter, which was mentioned in the commission yesterday, is back for mention on Friday. As Mr Berry again indicated in his answer to the question, officials are working to try to hammer the document I signed, which does provide benefits to workers and benefits to the community, into a form that is more consistent with the overall enterprise arrangements in such a way that we can ideally preserve the benefit to government and the benefit to workers.

Magistrates Court - Practice Directions

MRS GRASSBY: Madam Speaker, my question is to the Attorney-General. Can the Minister advise the Assembly of any changes to practice directions for the ACT Magistrates Court?

MR CONNOLLY: Madam Speaker, I am sure that members always take a great interest in practice directions in the Magistrates Court, but one that is coming into force this week is one that people should be particularly pleased about. I said to this Assembly back on 17 February that the Government would be moving to achieve savings for policing in this Territory by reducing the need for unnecessary police attendance at the Magistrates Court. I think that is something that even Mr Humphries has agreed in the past was an area where we could well achieve savings in such a way that we do not adversely impact on police services to the community.

I am pleased to be able to advise the Assembly that the Chief Magistrate, Mr Cahill, has signed a practice direction to require that, when there is a plea of guilty on all summary offences, common assault offences, theft or destroying or damaging property offences where the value of the property is less than $1,000, and theft or damaging or destroying property offences where the property is a motor vehicle, the police informant will not be required to attend in court. So on that vast raft of summary offences, common assault offences, minor theft or damage to property offences or theft or damage to motor vehicles, police informants will no longer be required as a matter of course to attend court.

That will achieve significant savings. It will mean that the situation will no longer occur where you wander over to the Magistrates Court on a Monday morning and see 15 or 20 police officers effectively hanging about waiting for cases to be called on and usually giving evidence that lasts for minutes, if not seconds. Those police will be redeployed out policing or, in many cases, will no longer have to come in on overtime. It is very common that when a policeman or policewoman is required to give evidence in court on a certain day they may well have been rostered on duty the previous night and so have to come in, effectively backing up to a double shift and attracting all the additional costs for that.

The procedures relating to the presentation of cases are being done in such a way that the rights of defendants will be protected. It is important to stress that if the court or the defendant wishes the police informant to attend - say, if the defendant wishes to clarify a point, even though he is pleading guilty - the matter will be adjourned to enable the police informant to attend. So we are doing it in such a way that we protect the rights of defendants, but we will significantly reduce the requirement for police to be giving quite unnecessary evidence. This is another example of the way this Government is going about achieving savings to the police budget in such a way that we do not adversely impact on services and we have police out doing useful and constructive things, policing rather than perhaps hanging about court, getting bored and frustrated and not protecting the community.

ACTEW Enterprise Agreement

MR DE DOMENICO: Madam Speaker, my question without notice is to the Minister for Industrial Relations, Mr Berry. I remind him of his answer to the question asked previously by Mr Cornwell. I also remind the Minister that subsection 38(1) of the Electricity and Water Act says:

> Where the Authority satisfies the Minister that it has suffered financial detriment as a result of complying with a direction of the Minister under section 37 -

that is the direction Mr Connolly alluded to -

> the Authority is entitled to be reimbursed by the Territory the amount that the Minister determines in writing to be the amount of that financial detriment.

I ask the Minister: Will the Government move towards reimbursing ACTEW the extra $500,000 that would have been saved had this agreement been allowed to proceed? Is the Minister aware that, by denying ACTEW the ability to save $500,000 and the Government having to pay a reimbursement, the ACT taxpayer is paying $1m for socialist ideology?

MR BERRY: They would be getting it cheap at that price. The facts of the matter are that there is an agreement, which I talked about earlier, that is alleged by some to provide a saving of $500,000. I have not tested that, but there is indeed in place an agreement with the remainder of the work force which is about to set us on a course of efficiency and workplace bargaining and which potentially will save us much more. So you cannot, on the one hand, say that a saving suggested in some areas should not be passed up if there are potential savings somewhere else.

When we come to the issue of industrial negotiations, both sides are entitled to have a view about particular industrial matters. The Government's position has been made clear in its agreement with the unions and its acceptance of the mirror agreement. The arrangements that will eventually be put in place in relation to workplace agreements, and agreements of the nature of that which has been discussed in the *Canberra Times* this morning, will be arrangements that are consistent with the commitment the Government has given and they will be arrangements that are in the best interests of the Territory in the circumstances.

MR DE DOMENICO: I ask a supplementary question, Madam Speaker. Will the Minister make sure that the Government complies with subsection 38(1) of the Electricity and Water Act 1988?

MR BERRY: I can say to you that the Government will comply with the relevant laws when it comes to dealing with industrial relations matters.

Mr De Domenico: What about the Electricity and Water Act specifically?

MR BERRY: When it comes to dealing with the Electricity and Water Act, I do not think our attitude would be any different.

Departmental Accident Statistics

MS SZUTY: My question without notice is also to the Minister for Industrial Relations, Mr Berry. In the March newsletter of the ACT Government Service Occupational Health and Safety Unit, a graph was provided on page 7 showing accident statistics reported by departments. Can the Minister inform the Assembly why the Department of Education does not rate a mention? If it is the case that it is included in the "all other" category, why are not the departments represented in that category identified for their obviously good records on occupational health and safety matters?

MR BERRY: I do not have the document in front of me. I will take that question on notice and report back in due course.

Industrial Relations Commission Hearing

MRS CARNELL: My question is also to the Minister for Industrial Relations. Is it correct that an assistant director of the industrial relations division of the Chief Minister's Department, within your portfolio, was flown to Sydney at taxpayers' expense yesterday to attend a 15-minute hearing of the Industrial Relations Commission? What hearing did this officer attend? What was the total cost of his visit? What contribution did he make to that hearing?

MR BERRY: Madam Speaker, as is consistent, industrial relations officers travel wherever the Industrial Relations Commission requires.

Mrs Carnell: What was he doing there?

MR BERRY: He was up there in relation to the matter that was before the Industrial Relations Commission, silly. That is what he was there for. Industrial relations officers travel to Melbourne in relation to ACT matters and they travel to Sydney in relation to ACT matters. Sometimes hearings are very short. In relation to that particular matter, he had every good reason to be there. The matter has an impact on the overall commitment we have given to unions in this Territory, and I would expect industrial relations - - -

Mr De Domenico: Which unions?

MR BERRY: The 15 that have already signed up for the agreement, and others that have not thus far signed up. We have given a commitment to those unions that represent Government Service employees and we intend to stick with it. We intend to make sure that the agreement stands firm. Of course industrial relations officers would travel to Sydney. If the commissioner had said that he wanted to see them in Melbourne, they would have gone to Melbourne. The hearing was a matter which was before the commission, and the procedure, as Mr Humphries would know, as a lawyer, is that you turn up. You do not ignore the commission; you turn up and put your case in relation to the carriage of a matter.

Mrs Carnell: Why did you not ask for an adjournment?

MR BERRY: In fact, that is what happened.

Mrs Carnell: Why did you have to send someone for that?

MR BERRY: That is what happens. You ought to try it some time.

Mr Humphries: When she is a Minister she might.

MR BERRY: She never will be, so she will never get the chance. It is quite reasonable for officers from Industrial Relations and anywhere else within the government sector who are concerned with industrial matters to travel to Sydney or to Melbourne, or to any other place where the Industrial Relations Commission requires them to appear on particular matters.

Blue-Green Algae

MS ELLIS: My question is directed to the Minister for the Environment, Land and Planning. What action is possible to overcome the problem of blue-green algae in ACT waterways?

MR WOOD: This is one way of getting a question, is it not? That is the question: How do you handle it? I have come into this Assembly at various times and indicated that there are situations where people should not swim in the lakes or

touch the blue-green algae; but finding a solution to the problem, to see that it is removed, is a little different. It is a matter that has been very extensively examined across Australia.

The ACT Government, through the Department of the Environment, Land and Planning, is a full partner in the CRC in freshwater ecology, predominantly established at the University of Canberra under Professor Cullen. It is that level of work that is required to see whether we can determine ways of preventing the outbreaks that have marginally affected our lakes in the last few weeks. I was interested to hear on the radio today that, again, someone is speculating that carp may be a factor as they churn up the mud at the bottom of the rivers or the lakes. I suppose that there is a logic to that; but time will tell, as more intense research gets under way. We are very happy to have supported the cooperative research centre. It is going to be doing a very important job for the whole of the Murray-Darling basin and, beyond that, for all the fresh waters of the continent.

In one respect we have built in a problem, I suppose. Lake Tuggeranong, for example, is certainly designed as a recreation area, but it is also part of the containment measures to protect the Murrumbidgee. Lake Tuggeranong and the ponds above it, and the other works we put in place, are designed to prevent the run-off into the major river systems. By doing that, of course, it tends to gather the nutrients upon which the algae feed. The answer will take a little longer to work out, but I am very pleased to be able to say that, through that CRC, we will be playing our role.

ACTEW Enterprise Agreement

MR HUMPHRIES: My question is to the Chief Minister. The Minister will be aware that shortly before question time began today the lights in this building went out. Can the Minister offer any explanation as to the origin of that problem? Can she rule out the possibility that the lights going out in this building was part of the Government's present dispute with the union movement concerning an enterprise agreement in ACTEW? If this power failure was to do with that dispute, what steps will the Government take to make sure that the workings of this Assembly are not interfered with in the future by industrial problems between the Government and unions?

MS FOLLETT: Madam Speaker, I can shed no light whatsoever on the little blackout we had. I am unaware of its cause or of its antecedents. I would say to Mr Humphries that questions regarding the operation of the Assembly might be better addressed to the Speaker.

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

SUBORDINATE LEGISLATION
Papers

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

The schedule read as follows:

Administrative Appeals Tribunal Act - Determination of fees - No. 27 of 1993 (S51, dated 30 March 1993).

Magistrates Court Act - Determination of fees - No. 28 of 1993 (S51, dated 30 March 1993).

Magistrates Court (Civil Jurisdiction) Act - Determination of fees - No. 29 of 1993 (S51, dated 30 March 1993).

Small Claims Act - Determination of fees - No. 30 of 1993 (S51, dated 30 March 1993).

Supreme Court Act - Supreme Court (Fees) Regulations (Amendment) - No. 13 of 1993 (S50, dated 30 March 1993).

LAW REVIEW PROGRAM
Paper and Ministerial Statement

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.02): Madam Speaker, for the information of members, I present a discussion paper entitled "Law Review Program - Audit of ACT and NSW Law Reform Initiatives". I move:

That the Assembly takes note of the paper.

Madam Speaker, in October 1991 I tabled in the Assembly a report on legislation review which recommended a process for systematically identifying reform initiatives applicable in the ACT. The present report on audit of ACT and New South Wales law reform initiatives examines reform initiatives of the former Law Reform Commission of the ACT and those contained in the more recent reports of the New South Wales Law Reform Commission. It has been prepared by the Law Reform Unit of my department, following consultation with all relevant ACT agencies.

In the ACT our law has been particularly difficult to understand and use. Some of the existing law is no longer relevant to the interests and needs of Canberrans. At self-government, the ACT law consisted of a confused amalgam of imperial New South Wales and Commonwealth law. Little of the law had been subject to timely maintenance or met contemporary standards of consistency and accessibility. None had been passed by representatives of the people of Canberra. Many upheld outdated moral or social standards or operated inefficiently or ineffectively. Timely law reform review would have eliminated many of the problems of ACT law. Laws of quality might have been developed, monitored and updated.

However, the lack of rigorous parliamentary law reform and review of ACT law under Commonwealth administration was reflected in the fact that our legislation was littered with a number of quaint statutes. Many of these inappropriate laws remain. Let me give you just three examples. Our local tourist industry is still regulated, in some respects, by medieval law. Public health regulations, while prohibiting chickens and horses from entering bakeries, do not prohibit cats, cattle or geese, which is something you should contemplate when next buying some bread. Canberrans are prohibited from chiselling more than 91 characters onto their gravestones. However, lack of Commonwealth effort was also reflected in the noticeable absence of laws that addressed the modern challenges of competition policy and social justice.

Mr Cornwell: Socialist justice again; here we go.

MR CONNOLLY: Some of us on this side of the house think it is an important concept, Mr Cornwell. Prior to self-government, Canberrans relied on the Commonwealth departments that administered the Territory to reform ACT law. The departments were unable to fulfil that responsibility because of a lack of resources devoted by governments. For much of the period prior to self-government, the development of ACT law was not a top priority for the Commonwealth Government and it was rightly criticised by a number of sources. As far back as 1962, Justice Joske of the Supreme Court of the ACT criticised the archaic state of the Territory's criminal law. In 1964 and 1965 the *Canberra Times* ran a series of articles on the need to update our law. Members of parliament from the ACT campaigned strongly in favour of establishing an independent law reform process for the ACT.

Finally, in the face of increasing pressure, the Commonwealth Government established a Law Reform Commission for the ACT. The first chairperson, Justice Blackburn of the ACT Supreme Court, was dedicated to ACT law reform but was not given the support he needed by the Commonwealth Parliament, in terms either of resources or legislative commitment. Notwithstanding its operational difficulties, the work of that commission was impressive and its eight reports were scholarly and thorough. The report now before the Assembly considers all the unimplemented recommendations of the Blackburn commission. The recommendations contained in all but one of the reports produced by the Blackburn commission were overlooked by the legislature until the mid-1980s. Some of the problems of ACT law identified by the Blackburn commission continued to be neglected until self-government, notably those relating to landlords and tenants and the guardianship and management of the property of mentally infirm persons. Only now are some of these important issues being examined in the ACT. The reports of the Blackburn commission set the groundwork for these reviews.

The inadequacy of the pre-self-government law reform process in the ACT was further highlighted by the growing number of relevant law reform initiatives coming out of New South Wales under the direction of the New South Wales Law Reform Commission. The New South Wales Law Reform Commission, which considers aspects of a body of law which is very similar to that in the ACT, has released some 26 reports in the last 10 years. Many of the issues raised in those reports have not been addressed within the ACT before this report.

Preparation of the present report has involved a systematic review of each of the eight reports of the ACT Law Reform Commission, to identify law reform initiatives that remain relevant within the ACT context and to recommend suitable action. A similar review of those reports of the New South Wales Law Reform Commission stemming from references received since 1982 was also conducted. The report has identified a wide range of relevant initiatives, including reorganisation of some ACT laws to make the law more accessible and certain, conveyancing law, civil law, artificial conception, disposal of uncollected goods, dividing fences and jury law, among many others. The report recommends four main approaches: Matters which might be remedied by simple legislative action; matters which should be examined within a later cycle of the law reform program; matters which might be referred to or considered by the ACT Community Law Reform Committee; and matters where no further action is required within the law review program.

Madam Speaker, while much of the report deals with uncontentious matters, I would ask members of the Assembly to carefully consider this report - particularly the amusing bits which some of them seem to have discovered - as the breadth of its subject matter has the potential to affect the interests of many people in the Canberra community. Consequently, the Government proposes to leave the report on the table for the next two months, to ensure that members have adequate time to study it. In conjunction with this scrutiny by the Assembly, I have asked the Law Reform Unit of my department to call for community comments on the proposals set out in the report. Legislative action to implement the report's recommendations will not proceed until after careful consideration of all comments received. Madam Speaker, this Labor Government is committed to ensuring that the ACT has the most clear and accessible laws in Australia. The law review program is an important tool in the development of such laws.

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

BANKING PRACTICES
Discussion of Matter of Public Importance

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

> The unnecessary hardships caused to many Canberrans and the ACT business community because of unethical banking practices.

MR STEVENSON (3.08): Madam Speaker, banks in Australia have a great deal to answer for. Rather than being helped by institutions which in our parents' time were seen as virtually public benevolent or public service organisations, people in the ACT today are being placed under extreme hardship because of unethical bank activities. Many are being hounded out of business by private institutions which are not just hungry for the dollar on behalf of their shareholders but obviously are quite prepared to act illegally and immorally in the process of obtaining as many of their clients' dollars as they can. Quite apart from the usurious interest rates which are charged in a totally unconscionable way, there are quite a number of other scams which the banks use to become parasites on the back of this community.

Apart from a very high level of fees - in fact, fees that are so high that they are hard to justify from any point of view - over the last several years banks have changed their procedures for extending credit. These days far fewer people qualify, or people qualify for far less amounts, than previously. This is regardless of the security they have to offer. This has the effect of constricting the flow of cash in the community to the extent that businesses are going broke waiting to be paid by all the people in other businesses who are being treated in exactly the same way by the banks.

Commonly, no matter how much collateral security they put up, businesses are given an overdraft limit of not more than two-thirds of what they really need. This is just a rort so that the extra money required is granted as a concession by the manager but at a penalty interest rate. Typically, 3 per cent above normal overdraft rates is being charged. This is only more money going into the pockets of the banks at the expense of the community and the businesses involved. Another appalling situation is when the banks quote journalists their prime rate. Nothing like the majority of their customers ever obtain this rate. It is virtually unheard of for businesses to obtain funds at the prime rate. Certainly, most small businesses pay several per cent higher. Then later, if they get into any cash flow constriction or trading difficulty, a so-called risk factor is added to the borrowing rate which applied to them before the so-called arbitrary risk was assigned to them.

Then we have the situation of fixed interest, fixed term mortgages. Lately there has been a disquieting number of incidents of banks terminating these contracts for no known reason, saying only, "You no longer meet our lending requirements", without giving any indication of what lending requirements are no longer met. Particularly in the situation of interest rates being much lower than in the recent past, the problems this causes can be dramatic. Despite the fact that the bank may have arbitrarily cancelled the agreement before the expiry of the agreed term, they hold the client over a barrel. They make the client pay this penalty before they will release the security, which is typically a mortgage, so that refinancing can occur. This often creates a need to borrow more than the collateral will support.

Let me give an example. Say that the bank lent two years ago at 13.5 per cent. If today's lending rate is 7 per cent, they will want the difference - 6.5 per cent on the total borrowed - for the rest of the contracted term. This is simply extortion. The net effect of this is that somebody who borrowed $120,000 had to repay $142,000 in order to get the collateral released. This is an actual example of a business in Canberra. These penalties often seem to have been arbitrarily imposed. There does not seem to be any logical reason for them. One other recent case involved a business proprietor who was told that the penalty in his case was $600,000. When he objected strongly, the bank said, "Sorry, we have made a mistake; it is $300,000". They dropped it to $300,000 on the spot when he brought the concern up, but they still forced him to pay that penalty.

Most people do not have the tens or hundreds of thousands of dollars available for up-front lawyers' fees to litigate to protect themselves from these unethical practices. It is an important point to note that there are many solicitors who will not take on a case unless the client pays money up front. One can understand that if they feel that the client is under some economic hardship they may feel that they will not be paid. However, what does this do for justice? What does

this do to allow the person being screwed by the bank - and I think it is a good way to put it - to gain justice? All the rightness in the world will not help someone in that situation. In Canberra recently repossession agents attempting to take someone's car away used a document which contained forged signatures. When their bluff was called, they simply ran away, never to be heard from again. One wonders how many other people lost their vehicle or other property in similar circumstances.

I think it is obvious that banks today operate differently from the way they used to. One local bank manager said to an unhappy client, "I do not know why you worry about interest rates. We make our money out of foreclosures". What a lamentable state of affairs this is! Fortunately, the jeweller concerned was able to take his business elsewhere by refinancing when the bank asked him for even more security when they already had more than enough. At least his relatives did not end up losing their homes as well, as many others have.

I know of a case in Sydney where someone involved with the Commonwealth Bank borrowed from Elders and ended up paying for overseas foreign exchange debts that had never been incurred. The money had never been sent offshore. That case was submitted to the fraud squad. It was a clear case of fraud - I have seen the documents - but, unfortunately, nothing was done. The person, who was businesswoman of the year a few years ago, was bankrupted. Her mother lost her home. The woman herself lost literally millions of dollars because of bank fraud. In that case a Commonwealth Bank manager forged her signature on a business account, placed in that account securities that had been left with the Commonwealth Bank for safekeeping only, and used that situation in the bank's activities to try to reclaim loans from the person.

In another case in Canberra a church required six parishioners to put up their homes as security. Many strange things happened after that. There was a valuation for $1.55m and that was said not to be adequate for the amount of money sought by the church. The bank manager referred them to another valuer, who gave them the required much higher valuation. In other words, the bank manager knew where to send someone to get the right valuation, regardless of whether that was the correct valuation. Six hundred thousand dollars was then secured by the mortgages of the parishioners, who were not notified about various matters that the bank in that case was required by law to notify them of.

Former Democrat senator Paul McLean is someone who stood up very strongly for the people in their fight against banks. He wrote a book called *Bankers and Bastards*, and in the preface he said:

> This is a book about the human face of banking; about its social power and its abuse and neglect. Its criticisms are not directed at the many thousands of ordinary Australians who work in banks and give their best for us, and usually with a smile.

That is a point that I endorse totally. He continued:

> It is directed at the concepts, processes, policies and practices which are modern banking as we experience it. It targets especially the few ruthless bankers who deliberately abuse the special powers that they hold in trust for the community.

> But it is about more than banking, it is also about parliament, politicians, the courts, the media and the imperfections of them all. At its best democracy is imperfect, but ours is not at its best any more. So it is also about the failing health of our democracy.

In this book, *Bankers and Bastards*, Paul McLean published the Westpac letters. I think it is worth while noting once again what they are about. The book states:

> The information in the letters was described by their writers as "devastating", and devastating it was. Here was a leading Australian legal firm, Allen, Allen and Hemsley, telling Australia's largest commercial bank, Westpac, that in their view there was a strong possibility that officers of their wholly-owned subsidiary, Partnership Pacific Pty Ltd, could be guilty of fraud, breach of fiduciary obligations, tax evasion and breach of their statutory obligations to the Reserve Bank, and then going on to suggest ways of minimising the damage from any litigation which might follow from action by customers.

It took some time to unravel all the details of the scam. Indeed, many of the details are still not known, Westpac having "lost" some of the key documents. But the bare bones were clear. Partnership Pacific (PPL) sold its customers a "product" which, effectively, enabled PPL to gamble on the foreign exchange market with its customers' money, and pass all the risk and the withholding tax to the customers, while taking the lion's share of the profit for itself. This would, if true, amount to one of the greatest corporate frauds in Australian history.

Paul McLean sent the Westpac letters to Dr John Hewson. McLean received a letter from Duncan Fairweather, the chief of staff in the office of the Leader of the Opposition, and it said:

> During Question Time today an envelope was delivered to Dr Hewson's office by a member of your staff who said it contained "Westpac papers".
>
> This material has not been requested by Dr Hewson and I return it to you unopened.

The letters were also sent to Paul Keating. Keating, through his staff, said that it was nothing to do with him. At the time he just happened to be the Treasurer and the Minister for banking, but he said that it had nothing to do with him that the largest commercial bank in Australia had been told by their legal experts in a confidential document that, putting it bluntly, they were crooks.

Bruce Miller, some months ago, placed a very small ad in the *Canberra Times*. It said that a public meeting was to be held with those people who considered themselves to be victims of the State Bank of New South Wales, with a view to doing something about the unethical practices of that bank. I phoned up on the Saturday morning, when I saw that little ad. I was actually the first to do so, but not the last by a long shot, because literally hundreds of phone calls have come in to Bruce Miller since that small ad. Members well know that a meeting was held in Tuggeranong. Mr De Domenico attended. Some 70 people, some from interstate, came with some of the most heart-rending stories about people who presented themselves as valuable business people being ripped off by totally unethical practices of the State Bank of New South Wales.

On the following Sunday there was a second meeting of the group, which was now calling itself the Victims of the State Bank of New South Wales, in Sydney. I believe that over 200 people attended that meeting. At that meeting senior officers gave an assurance that there would be a 30-day moratorium on any further legal action against victims of the State Bank of New South Wales. They did not call their clients that, but that indeed is what many of the clients of the State Bank of New South Wales are - victims. Obviously, after considerable thought, the bank gave a guarantee that there would be a 30-day moratorium. Despite that, I have evidence of their solicitor saying to another of their victims' solicitors that, in his case, they were going to proceed with legal action. In other words, the moratorium meant nothing. It is about time that we did something about these appalling, immoral and, in many cases, highly illegal acts. I commend the principle to members, and let us keep on in this particular vein.

MS FOLLETT (Chief Minister and Treasurer) (3.24): When I saw the title of Mr Stevenson's matter of public importance, I was not sure exactly what issues Mr Stevenson might be covering, so my comments on the MPI are necessarily fairly general, although I do agree with Mr Stevenson's general proposition that in many instances banks have not treated their customers, their clients, as we would wish to see them treated.

From what Mr Stevenson has had to say, I am not sure whether he expects the ACT Government to make any particular response to the issues that he has raised. That presents some difficulties because, as I am sure members know, the regulation of banks in Australia is the responsibility of the Reserve Bank of Australia under the Banking Act 1959, and the overall objective of that regulation is depositor protection. Given that the Reserve Bank does the regulation of banking, it seems to me that it is extremely difficult for the ACT to intervene; but, of course, we can always make our views known.

The Reserve Bank of Australia sets prudential standards - by that I mean the levels of capital and liquidity - and monitors compliance with those standards. They also set the official cash rate, and the interest rate for financing transactions between banks and the Reserve Bank. Although these rates affect the mortgage and business lending rates that are offered by banks, the RBA does not control the rates set by banks. They are in fact set by competitive pressure between the banks in the marketplace in accordance with the lending policy and business profile of each bank. Madam Speaker, State banks could remain outside the RBA's supervision; but in fact all States have elected to come under the RBA, even those for whom it is in fact voluntary to do so. Since its corporatisation, the State Bank of New South Wales has been directly under the Reserve Bank of Australia.

The credit provision by banks to consumers, especially disclosure and enforcement of loan conditions, is regulated under the credit Act of each State and Territory. It has long been the ambition of this Government, and it has given a great deal of work to my colleague Mr Connolly, to see uniform credit legislation throughout Australia. That has yet to be achieved, but when we achieve it we might get a better deal across Australia for the clients of banks. As things stand, Madam Speaker, consumer complaints can be lodged with the consumer affairs offices throughout the country, with the Banking Ombudsman or with the Reserve Bank itself. That is the situation with banking.

A great many credit transactions and financing transactions are, of course, made through building societies and credit unions. Those institutions are under the control of the Australian Financial Institutions Commission, which I have reported to this Assembly about on previous occasions. The AFIC sets prudential standards for all States and Territories, and they base those on the RBA standards. To monitor compliance with those standards, each State has a supervisory authority. In the ACT it is the Registrar of Financial Institutions. In most States, including the ACT, building societies and credit unions are currently exempt from certain credit Act provisions relating to the disclosure and enforcement of loan conditions. This exemption will be removed when the uniform credit legislation is implemented - another good reason for that uniform legislation. Consumer complaints about non-bank financial institutions in relation to credit provision can be lodged with Consumer Affairs or with the State supervisory authorities. In the ACT complaints about a non-bank financial institution should be lodged with the Registrar of Financial Institutions.

Madam Speaker, I think there is widespread recognition that the banks need to lift their game in relation to their customers. This is a matter that was taken up at some length by the Prime Minister, Mr Keating, in his statement on 9 February 1993, when he launched "Investing in the Nation". I will quote from the Prime Minister's comments. He said:

> ... we need a culture which lays more stress on establishing close relationships between banks and their customers.
>
> I encourage the banks to provide extra training for staff so they can better evaluate the risk and potential of proposals; and to be much more prepared to lend on cash flow.
>
> If we are to develop and expand innovative small and medium business in Australia, this sort of closer relationship banking is essential.

He also said:

> In future, to ensure that our banking system is working effectively, under a Labor Government the Reserve Bank will establish the machinery to regularly monitor the conduct and patterns of bank lending.
>
> In addition, the Reserve Bank will conduct quarterly surveys of small businesses to establish a better understanding of their relationships with banks.
>
> To provide the RBA with more detailed information and advice, the Reserve Bank will also establish a large and representative Advisory Council whose members will be principals of small and medium businesses.
>
> To encourage banks to establish the appropriate structures and to increase the lending to small and medium business, the Reserve Bank will pay market interest rates on bank deposits it holds, thereby increasing the revenue of banks by about $140 million.

Madam Speaker, I think it is clear from those comments that the concern about the operation of banks has been taken on board at the very highest levels. I certainly look forward to the action that the Prime Minister has foreshadowed in his speech, because I believe that that action should actually lead to a better outcome, especially for small and medium businesses in their bank dealings. As Mr Stevenson has said, many private individuals have had a rough trot at the hands of the banks, and it is up to us all to publicise those matters when they are known to occur and also to seek redress for the people concerned.

I know that the banks are in a competitive market, and about the only sanction left to the private individual is to make known the treatment that they have had at the hands of one bank or another. Nevertheless, Madam Speaker, I think there are reform processes coming on. I know that the conversations that I have had over the past few years with bank managers indicate a spirit of enlightenment and a greater willingness to be of service to their customers. Of course, that is only good business for the banks. They are in competition with each other. They need as many customers as they can get, and they need to protect their good names.

I join with Mr Stevenson in looking forward to better times from the banks, Madam Speaker, but I would like to say that I think the Prime Minister's approach augurs well for banking in the future, particularly by requiring a more active monitoring and regulatory role from the Reserve Bank. I expect that in time we will, in fact, get a better result.

MRS CARNELL (3.32): Madam Speaker, I rise today to speak about banking practices and the unacceptable way in which these practices can affect small business. A strong small business sector is of vital importance both to Canberra and to Australia, and I am sure that no-one would argue with that. Small business is a major employer. Nationally, over 72 per cent of employees work in the small business sector. In Canberra small business is already a major employer. Even the Chief Minister admits that all of Canberra's future employment growth will probably be in this sector.

It should be remembered that small business is almost always independently owned and managed. It is usually the owner who is the sole contributor of business operating capital. It should also be remembered that in Canberra the average small business employs fewer than 20 people. In other words, small business is owned and operated with very little backup. Most people involved in small business are only too aware of the demands on their time and the need to be well organised and to be good managers. They often work seven days a week for 12 hours a day. This is not an unusual situation for people who own their own small business. Small business people often do not have the luxury of going from bank to bank to compare the services provided every time the bank changes its rules, even if - and I stress "if" - full details of those services provided by each bank are available.

While I would not go so far as to say that banking practices are unethical, as Mr Stevenson's matter of public importance states, I would say that they are sometimes unfair and can treat small business operators very poorly indeed. Regularly, banks do not provide an adequate service to small business operators. In fact, most banks do very little to encourage investment in small business, particularly those small businesses that wish to grow and expand and employ more young Canberrans.

There are many genuine problems faced by small business people when dealing with banks. First, and probably most often complained about, are the fees and charges that are often levied with no explanation and, most importantly, absolutely no recourse. Regularly, when the renewal of a loan is due, there is a requirement for increased collateral by the bank, thus in effect moving the goalposts. This type of behaviour causes very real problems for small business people, who often do not have any major assets to draw upon. I think many of the complaints that have recently been made public by people having problems with various banks have been due to this. People have had absolutely no capacity to meet the banks' increased requirements for backup for loans. People, in the end, have had to sell their businesses to meet the banks' demands.

We have heard many stories of banks actually refusing to renew loans despite there being no previous problems with repayments. Once, these sorts of loans were automatically renewed. Those days have certainly gone. Fixed term loans, loans taken - often at the advice of the bank - for short-term cash flow problems, cannot be discharged early. I get lots of complaints along these lines. While I do not suggest that banks are not entitled to charge for services, they should equally not be able to seek payment for a non-existent impost. The banks should be allowed to charge only for the cost of terminating the facility. This extra impost can cost small business people money that they just do not have.

Banks often refuse to lend money based on a going concern, despite the best business plan and ability to prove capacity to pay. This forces owners to take out second mortgages on their homes to support business ventures. Surely, in instances where a loan is required and a small business person can show that that loan can be backed up by the cash flow of the business, second mortgages should not be required. Overdraft facilities are another impost on small businesses. A charge to establish an overdraft is of course acceptable, but then to be charged a regular fee, whether the overdraft facility is used or not, seems a little bit unrealistic, particularly when the interest rates on overdrafts that are used are particularly high.

Business cheque accounts regularly do not attract any interest. Why? I believe that all positive balance accounts should attract interest, given the fact that business cheque accounts attract considerable cheque fees. Merchant fees, that is, fees charged to a business for credit card facilities, can also be a large impost. Small businesses bear the brunt of a fee that can be as high as 4 per cent. In effect, this means that banks are receiving a double fee. The merchant pays a fee, and the card holder pays interest for using the card, if they do not pay their bill on time. This seems to be double dipping by the bank for a system that the bank itself introduced. Of course, if the card holder pays their account on time it means that the merchant picks up the total cost.

One thing that I must admit really irks me in my business is being charged $9 every time somebody presents a bad cheque.

Mr Wood: Never in Red Hill. I cannot believe that.

MRS CARNELL: There are some, unfortunately. Should not the cost be borne by the presenter of the cheque, not the small business person who has already lost on the deal? The banks never let anything go past without an extra charge. It would appear that the banks provide little to small business customers.

Even things such as a deposit book have a cost, and that is a charge for doing the bank's own work. While there may have been some benefits under deregulation - and I suspect that those benefits are quite definite in some areas of banking - I doubt very much whether the small business sector would heap praise on our current system.

While financing a business under the old system could be somewhat restrictive, it was relatively cheap for small businesses. The ceiling rate on small loan overdrafts was lower, for the most part, than the rate for large overdrafts. However, banks rationed finance to low risk customers. While deregulation has opened the doors to some small businesses, it has provided access to finance at a very definite price. In general terms the cost of a debt is notably higher for small businesses than for larger businesses, and one would have to argue whether this higher margin is justified.

One of the glaring problems is the impossible task of comparing one banking service with another. This can be a problem when comparing in-house services, but more so when trying to find out where you can get the best deal for your business, one of the reasons being the failure of banks to disclose many of their fees and charges. Banks have made very little effort to clearly explain their products and their associated costs. Apart from being unfair, non-interest add-on costs are a very real problem for small businesses. These add-on costs make it complex for owners to assess the overall cost of borrowing and, as I have said, make it almost impossible for them to compare services that are provided.

As mentioned, small businesses have concerns about a number of aspects relative to their relationships with banks. We hear a great deal about the importance of our small business sector, Madam Speaker. We are often told that the growth of Canberra and Australia will be based upon a small business led recovery. Many people believe, and I think appropriately, that banks have actually undermined the growth of the small business sector by poor practices and by conducting their own monetary policy, which has slowed down lending rates to small businesses and kept some business related interest rates extremely high, particularly for small businesses, which do not have the capacity to deal with their banks in the same way as large businesses or chains do.

This view is supported by the Bureau of Industry Economics in a paper entitled "Small Business Finance", which states that BIE research suggested that tighter lending by banks was actually impeding much needed investment. *(Extension of time granted)* If we in Australia, and particularly Canberra, are serious about regaining lost ground, if small business is to lead the recovery or, in Canberra, to provide the necessary growth in employment, then things simply have to change. It may be said that this is just the marketplace at work, but I very much doubt it. We have to turn all the imposts on small businesses around. Banks should provide a genuine service, a service which is fully understood by those who use it.

In an attempt to achieve this, the Liberal Party fully support the recommendation of the House of Representatives Standing Committee on Finance and Public Administration that a code of practice be instituted and that the requirements of that code be widely advertised and be widely explained to those who use the banking system. Until these things are achieved, I believe that small business in Australia, and more particularly in Canberra because that is what we are worried about here, will be badly affected by its inability to compete equitably in the banking sector.

MR DE DOMENICO (3.44): Madam Speaker, I heard a funny little ditty that goes this way: If Al Capone had come to Australia, he would not have robbed a bank; he would have opened one. I think the comments made by Mr Stevenson, Ms Follett and Mrs Carnell are testimony to that. In summary, Madam Speaker, banks do what banks do, and that is make money. There is nothing wrong with that. I believe that it is up to individuals to find ways of working the banking system to change the structure of their financial affairs and create for themselves the wealth needed to fund them in their retirement and to invest in Australia.

There is no doubt, though, that the debt-to-equity ratio that the vast majority of banks hold is too extreme. I give a good example - a property worth $200,000 with a mortgage of $50,000. The bank holds the title for the whole $200,000, even though it has issued only $50,000. Therefore, the owner has no access to the equity which they actually own. Legally, the bank holds the title and uses the equity that the owner has paid for to take advantage of investment opportunities.

Say a bank takes a person's investment money. The bank will take, for example, $100,000 from a customer to invest and then lend it out several times over. The scenario is that the investor may make, say, 5 per cent on their $100,000 investment - that is not too good, but still - but the bank will make 10 per cent on every loan it makes, perhaps as many as nine. So the investor makes $5,000 and the bank uses his or her $100,000 to make $90,000. When one subtracts the investor's cut, the bank is still ahead by a very comfortable margin of $85,000. Madam Speaker, if you think that is where the bank stops, think again. The bank then lends out the $85,000 several times again. The money is creating money, but in most cases it is not creating jobs, factories and manufacturing products, all of which are desperately needed. Even the bank staff at the local coalface do not understand the system.

Then, if an individual wants a loan for something else, let us say a car or an extension, the person has to go back to the bank, cap in hand, and ask for another loan. There is no consideration for the already held equity of $150,000 in the house. The bank, instead, gives them an additional loan at a different and, in most cases, higher interest rate. That is a bit unethical, especially considering that there is a better way. Some people might think that the word "unethical" is not the correct word. We might say that it is immoral or we might say that it is unfair. If one looks up the dictionary, one finds that the definition of "unethical" is in fact "immoral". What the banks are not promoting is their all-in-one accounts, or line of credit, which have come into existence only as a result of deregulation. Only foreign banks are actively promoting this facility.

What about some case histories, Madam Speaker? Let us look at the cafe owners who were present at the meeting that Mr Stevenson and I attended. A nice young couple run a cafe. They started three years ago with a $75,000 loan which was attached to their parents' $200,000 home as a form of security. The loan was for 20 years. After three years the balance of the loan is $35,000. The couple want to buy their first home. The bank wants to retain the full mortgage on the parents' home, which is worth $200,000, as well as the title for the new home at $150,000 and the title for the cafe, now worth $250,000. The bank wants all this to raise a $100,000 mortgage for the couple's dream home, which is valued at $150,000.

The unethical bit is the way it was all tied up. Let us have a look at that. The parents' home, worth $200,000; the business, worth a quarter of a million dollars; the home, valued at $150,000. A total of $650,000 worth of assets is held by the bank to cover a debt of $100,000 for a home and $35,000 for the business. For a total loan of $135,000 the bank holds assets worth $650,000. What is unethical about covering a $135,000 loan with $650,000 in assets? You work it out; I do not have to do it for you.

Madam Speaker, the problem is also that the common person is unempowered to question the bank and access different financial products and is generally uninformed. In this climate the banks are tying up equity obtained - in most cases with after tax dollars - that could be used for investment opportunities. In this way banks are also responsible, as Mrs Carnell said, for dampening the economic climate for investment. Some would say quite categorically that in certain respects the current banking system is parasitical. However, there is hope. Just as consumer trends have forced manufacturers to produce recyclable packaging, phosphate-free soap and lead-free petrol, there will come a day when the public, each individual, will demand a fairer banking system which returns wealth to the country as a whole. That day is dawning - one hopes.

Finally, Madam Speaker, Mr Stevenson mentioned Mr Bruce Miller. Mr Bruce Miller is well known to a lot of us in this house. What happened to Mr Miller? Mr Miller's bank agreed to an overdraft of, I think, $45,000. Mr Miller had a car dealership, and obviously car dealerships are dependent on a good name. When Mr Miller's cheques started bouncing he rang his bank and started to express concern, only to be told then and only then, after his cheque bounced, that in fact the bank had decided not to give him an overdraft of $45,000 as agreed but to give him one of $15,000. It is quite obvious what happened to Mr Miller. He went bankrupt. Ironically, Mr Miller has now been "satisfied". The banks used what they have most of, and that is money, to "satisfy" Mr Miller's concern.

Madam Speaker, I repeat that, just as consumer trends have forced manufacturers to produce recyclable packaging, phosphate-free soap and lead-free petrol, there will come a day when the public and each one of us will demand a fairer banking system which returns the wealth to the country, and hopefully that day is dawning.

MADAM SPEAKER: The discussion is concluded.

CORRECTIONS REVIEW COMMITTEE REPORT - GOVERNMENT RESPONSE
Ministerial Statement and Paper

Debate resumed from 15 December 1992, on motion by **Mr Connolly**:

That the Assembly takes note of the paper.

MR HUMPHRIES (3.51): The response which the Government has brought down in this matter is, of course, a very significant milestone in the development of what I would call an indigenous ACT corrections policy, a policy which provides for us to have the maximum degree of control over the treatment of prisoners who are sentenced in gaols in the ACT. In that respect, this response has been long awaited, as indeed was the original report entitled *Paying the Price*.

I find the response encouraging in some respects and disappointing in others. The original *Paying the Price* report raised several crucial issues in the area of corrections. The report considered, for example, the adequacy of our present remand facilities, the Belconnen Remand Centre; the establishment of bail hostels in the ACT; and alternatives to imprisonment in this Territory, including such things as attendance centres, outdoor wilderness programs, home detention programs, periodic detention and community supervision. It included and discussed services to prisoners. It referred to volunteers in correction programs and how those volunteers would be integrated into the work of government, to the very vexed and important question of mentally ill offenders and to the administration generally of juvenile justice and correction services.

Those are all areas of importance. I think that the report is fairly described as a milestone report. It is a very important development. The committee was chaired originally by Mr David Chandler and later by Professor David Hambly of the Australian National University. The report represents a year's very hard work, and it covers comprehensively the full range of issues in this area. I do not think anyone could fairly describe the *Paying the Price* report as a weak report or as a report that was soft on the big issues. It is therefore a little disappointing that in many respects the most important questions raised in the report have not been fully addressed or squarely faced.

On some issues, Madam Speaker, the Government has been, I must say, brave. It has fully tackled the questions that have been raised in this report. For example, the very first recommendation was to establish a program to address crime prevention issues and to ensure that whatever program is in place is adequately funded and effectively targeted. In response to that recommendation the ACT Government, for this financial year, has allocated $50,000 to develop an integrated crime prevention strategy for the Territory. I think we would all applaud that, although we might argue about the alternative options for the expenditure of that sum. But we certainly agree that a crime prevention strategy is an important development in preventing people from reaching the correction system which we have to administer.

The other question of great importance at the present time is services to prisoners. We send up to 100 prisoners each year to New South Wales to serve terms of imprisonment. It is no exaggeration to describe the New South Wales prison system as being a disgrace. It is inhumane; it has an appallingly low record of rehabilitation; it is racked with violence; and it is a system which ought to be overhauled as comprehensively as possible as quickly as possible. It is distressing to anybody involved in the ACT criminal justice system to see prisoners constantly being pushed into that system, because the system does not meet the demands of a decent rehabilitation and correction system. It is also distressing from another point of view, in that the existence of that very poor, very inhumane system, I believe, acts as a very powerful deterrent to judges and magistrates in the ACT sentencing offenders deserving some term of imprisonment to a term of imprisonment, because they believe, quite rightly, that the system is a bad system and that in the vast majority of circumstances anybody, except perhaps very hardened criminals or those guilty of very serious offences, would be better off outside that gaol system.

The treatment of ACT prisoners within that system has been a vexed point, and I am pleased to note in the Minister's response that the Government, even before it brought down its response to *Paying the Price*, took the trouble to conclude with the New South Wales Government agreements which defined such things as the standard of treatment and the rights of prisoners within the New South Wales system; that it has provided for placement agreements, so that there is some element of control over where prisoners are sent in that system; and that it has negotiated the very important question of the cost to the ACT of housing prisoners in that system. We have been paying historically very large sums of money to house prisoners in the New South Wales gaol system - costs comparable with the cost of putting somebody up at the Hyatt Hotel here in Canberra. I am pleased to note that the Government has embarked on a process of renegotiating, and in fact has renegotiated, the cost of that. It might still be a very expensive process to send someone to gaol, but it is not nearly as expensive as it once was.

Of course, other things have happened. In the Assembly we recently readjusted the period of time that a person serves in lieu of payment of a financial penalty imposed in our courts. I think, from memory, we converted that from one day for every $25 to one day for every $100, so that prisoners serving time in lieu of payment of a penalty now serve the same period whether they are sentenced in New South Wales or ACT courts. Those are positive developments.

The Government has given a clear undertaking to act on questions of improvement in the position of those who are described as mentally ill offenders, those people who have clearly committed an offence of some kind but whose position simply cannot be equated with that of other people who come before our criminal justice system and who are clearly people with full capacity and make a fully rational choice about whether they commit crimes or they do not. The need for action in this area is extremely urgent and I detect a commitment on the part of the Government to do something about that, although I reserve judgment as to whether this is really happening at a pace which we would find to be acceptable.

Madam Speaker, the thing that is disappointing about this report is its avoidance of the central question of what to do about our own ACT corrections system, our capacity to house our own prisoners. A number of important options were referred to in the *Paying the Price* report as alternatives to imprisonment. But in a very real sense, Madam Speaker, it is not possible to fully explore alternatives to imprisonment unless one actually has that option available as well. I recall the Minister saying a few days ago, I think in this Assembly, that the Government saw imprisonment as the last resort, as an option of last recourse, as a way of treating only the most intransigent prisoners, the most incorrigible committers of crimes. I think we would all agree with that general approach, but inevitably there will always be people for whom the appropriate response to the commission of a crime is sentencing to a period of imprisonment. There is no question of that. In those circumstances it remains important for us to ensure that we are getting good value for money when we do commit very large sums of public money to the process of housing, feeding and educating people who have committed crimes in the ACT.

I believe, Madam Speaker, that it is, for the most part, true that we will never get that value for money by sending those prisoners to the New South Wales system or, for that matter, any other system presently operating in Australia. I believe that it is incumbent on us to embrace the necessity of dealing with our

own problem, not sending it somewhere else. I refer to the need for the ACT to establish or at least to consider the establishment of its own correctional institution, its own prison. On that central question, on which there was a very clear message from the *Paying the Price* report that we need that kind of control over our own prisoners - it was perhaps the strongest message that came out of that report - there has been, to date, simply no action on the part of the Government. I would have to say, in inelegant language, that this Government has shoved this matter as far towards the back of the stove as it possibly can get it.

I think this question will never be a politically fancy or attractive one. No-one is going to win many votes by promising a prison in the ACT. People might even lose votes by promising it. But it remains the case that if we do not deal with this question we are failing to deal with the full consequences of having a criminal justice system. We are failing to deal with the full ramifications of that system. We are simply not dealing with crime at all levels in all manifestations. We cannot talk about taking steps to discourage criminal activity if we do not have the means of providing solutions and rehabilitation at the end of the chain. People do commit crimes and they go through our justice system. There must be a full range of answers to each of the problems that face us at each level of our criminal justice system. So, as I say, I am disappointed with the response in that respect.

I think that there is a very powerful argument for giving prisoners a wider range of options than currently enjoyed. Members may have received - I do not know whether I was the only one to receive it, but I think the *Canberra Times* also got a copy - a letter from seven inmates of X wing at Goulburn Gaol earlier this year who are ACT prisoners who have been classified as C2 or C3 prisoners. They want to get back to the ACT to serve periods of periodic detention, or go to a halfway house or another institution like that operating in the ACT, so that they can be near their own families, which, of course, is a vitally important part of the process of bringing people back into the mainstream of social life, and also so as to be able to get work in the ACT, to give themselves that springboard so that when they leave the gaol system altogether they are on the path towards a sustainable future outside of imprisonment.

We all know what a serious problem there is with recidivism. We all know that we cannot solve that problem unless we have a gaol system which is humane enough to focus on rehabilitation and to provide alternatives of the kind that we have talked about here and which are talked about in the *Paying the Price* report. Those prisoners asked very plaintive questions and I want to read them into the record. I quote from the letter of 22 January:

> The big problem is, why can't we come home to work? All of us are qualified tradesmen. Why can't there be a house run under the Correctional Services, run by the inmates on a trust arrangement like we have here in Goulburn?

They go on to say:

> Then you might say, there's no work here (in Canberra), but a condition could be made to find work before we get here, so it would be up to us. The bottom line is, we are Canberra people wanting to finish off our rehabilitation at home, not in some foreign place like Sydney.

Obviously, if you are spending some time in gaol - - -

Mr Connolly: It is not that foreign.

MR HUMPHRIES: It might not be that foreign, but if you are a single mother, for example, or you are a single mother by virtue of the fact that your husband or de facto husband is in gaol, if you are a single parent perhaps raising two or three kids, barely able to meet the cost of rent, family expenses and so on from the social security payment, you are not going to be able to get to Sydney very often to see dad in Silverwater gaol, or wherever it might be - - -

Mrs Grassby: Not Silverwater.

Mr Connolly: Silverwater is a women's prison.

MR HUMPHRIES: Not Silverwater, I beg your pardon; some gaol in Sydney or even further afield. We have prisoners all the way up the north coast. We have prisoners in Bathurst and other places. It is clearly unsatisfactory, Madam Speaker, to have that situation continuing. We are not meeting the needs of our own system if we do not provide for some alternatives.

The Minister has talked in this place about embracing alternatives and looking at alternatives. I believe that he has alluded to, or if he has not he will encounter, legal problems in extending a full range of those options available in prisons in New South Wales when we do not have access to our own system. It is very hard for us to take a prisoner out of the New South Wales gaol system, say on some sort of early release program, have him or her commit another offence and then be sent back to the New South Wales gaol system. *(Extension of time granted)* Thank you, members. I will be brief. It is not going to be possible to explore all those options and have all those alternatives if we have to be constantly translating people between the two systems. There are difficulties in doing that which are either very obvious or unseen at this point. As I say, if we do not embrace those questions in the near future we will have been failing the people to whom I think we have a clear duty.

We all regret the incidence of crime, we all wish that crime would not occur; but when it does occur it is clearly the view of every judge and every magistrate in this community, and I think every one of us here, that on occasions the appropriate response is a period of imprisonment. If that is the case we must not wash our hands of the responsibility that we have for those prisoners. I hope that the rather tepid response we have in this report to that central issue of *Paying the Price*, that centrally important issue about the treatment of prisoners, will not be left on the backburner by this Government; that it will embrace the important question of how to deal with it, and that we will have some move towards the building of an institution in and for the ACT in the not too distant future.

We are seeing options developed in other places which are both economical and humane to their inmates. The Minister, I think, has visited some institutions in Queensland - - -

Mr Connolly: I have not yet, but I intend to.

MR HUMPHRIES: He is going to visit them. I am sure that he will find it a very illuminating experience. We have had in the last few weeks a privately run institution opened at Junee in New South Wales. That provides for a relatively cost-effective way of dealing with our prisoners. I think, Madam Speaker, that there are real alternatives available to the Government which would see this happen without enormous expense to the Territory budget, but we must first of all develop the will to deal with the problem.

MS SZUTY (4.09): Madam Speaker, the problems with the retention of people in custody are vexed and complex. We have the situation where any expenditure on facilities for inmates is opposed by many in the community. There are many who feel, although they would not express it in such terms, that those who are found guilty of crimes against people and property should suffer not only exclusion from society but also physical deprivation. But in Canberra we have a custodial facility where the majority of the inmates are not sentenced to custodial detention. Only 17.5 per cent of all ACT detainees received custodial sentences in 1988-89. There is nothing to suggest that this has changed significantly in the intervening period. Therefore, in the ACT we have the situation where the majority of inmates at the Belconnen Remand Centre will be released, yet the conditions within the Remand Centre have been allowed to deteriorate. I acknowledge that the ACT Government is trying to improve the situation with scarce resources. The ACT community is, in general, more concerned about education, health and other issues than the state of Canberra's remand facility.

However, I welcome this report and the Government's response, which, on the whole, is positive. What I ask that the Minister further outline is: When will the proposed feasibility studies be carried out, what are their terms of reference, and what timeframe are we giving for these tasks? In 1984 there was a need identified for a new remand facility. The current Belconnen Remand Centre superintendent, Mr Keith Brightman, in his submission to the ACT Corrections Review Committee, stated:

> A new Remand Centre is desperately needed for the ACT ... The centre is small, inhumane, provides poor working conditions for staff and is structurally incapable of any up-to-date custodial corrections programs. Due to its size, staff and running costs per detainee are much higher than in other States.

Nine years after the problem was identified in the report by Mr Tony Vinson and others we are still yet to carry out feasibility studies. There are no votes in improved remand facilities, as Mr Humphries has suggested. No-one gets bouquets for improving the living conditions of people charged before the courts, even though as Australians we accept the premise that a person is innocent until proven guilty. I lay most of the blame for the current lack of change on the Federal Government which chose to allow a number of ACT assets to run down in the years preceding self-government. I also lay some of the blame on the governments of the First Assembly, although I recognise that this report is in part a product of the workings of that Assembly. However, the Ministers involved would only have had to ask their superintendent about conditions there to begin the work on feasibility studies.

The people in the Belconnen Remand Centre, as I have said before in this place, in many cases are found not guilty, or if found guilty are given non-custodial sentences. The courts have judged only 17.5 per cent as deserving a custodial sentence. Many receive non-custodial sentences in deference to the amount of time spent in the Belconnen Remand Centre awaiting trial. That, of course, is another issue. The fact is that the time spent in custody awaiting trial has tended to rise over past years. I give full marks to the Government for its proposals in this area, with reforms of the Magistrates Court which will shorten the gap between charging, committal and trial. However, I feel, Mr Deputy Speaker, that we need to know more about the details. The Minister has stated in his tabling speech that feasibility studies are to be conducted, but we do not know when or how these studies are to be conducted. That is information that is desperately needed by those who want to see improvements in facilities for detainees.

Another issue that has been raised with regard to corrections policy is the renegotiation of payments for ACT prisoners in New South Wales gaols. The Government has successfully reduced the cost to the ACT by some $8 per prisoner per day. The Government is to be congratulated on this outcome. However, I suggest that the money saved could be targeted specifically at court diversion programs. Court diversion is recognised in *Paying the Price* as an adjunct to the development of an ACT correctional institution. I am aware that community service orders and other alternative sentencing options are already in use in the ACT. How much more could be achieved in producing a range of options to divert cases from the court system before hearing or sentencing? The report outlines some of these practices. If we have made savings in the areas of corrections, I feel that this money could be directed at providing an even better result in reducing the number of prisoners who are sent to New South Wales gaols.

Finally, Mr Deputy Speaker, I welcome the Government's agreement to the establishment of advisory bodies - the Corrections Liaison Committee, which has already been established as a forum for operational level matters; and the Corrections Advisory Committee, to provide policy advice and support for the Minister. I feel that these two additions to the corrections services portfolio will be of enormous benefit in providing an effective conduit, linking the community, people concerned with corrections policy, Remand Centre inmates, corrections staff, the courts, the department and the Minister. Mr Deputy Speaker, I look forward to hearing from the Minister regarding his timetable for the feasibility studies which form such a large part of the Government's response to this report.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.14), in reply: I thank Mr Humphries and Ms Szuty for their broadly constructive comments. It would be very easy in a number of State parliaments for a debate on the future of corrections to degenerate into a "Are you tough enough?", or "Are you too weak on prisoners?" argument. I suspect that in most State parliaments around Australia that is the way this sort of debate would go. I thank both Mr Humphries and Ms Szuty for acknowledging that we have inherited a major problem here. It really is a case of cleaning out a fairly messy stable, and there is no possibility of a simple and immediate answer.

The Government's proposed response, as was outlined, is to focus, in the first instance, on new corrections legislation and to address some of the problems that Mr Humphries raised in his reference to those letters from prisoners at Goulburn. I received a copy of that letter. Their complaint that they are unable to do work release is something that we indicated would be addressed. In my statement on the government response to *Paying the Price* I noted that the proposed new corrections legislation will include provision for transitional release of prisoners, designed to assist in their successful reintegration into the ACT community. Very much the philosophy behind the Government's response is to focus first on those issues which will further enhance non-custodial sentences and assist in that transition from prison to the free community. That issue of work release is just part of it.

Mr Humphries addressed the fact that there could be some legal complications. It is not an easy matter and that is why a legislative framework is necessary before we can introduce those programs. I can understand the frustration of the person in the New South Wales prison system who perhaps is a tradesperson, who could easily get a job in Canberra, who perhaps could easily have accommodation guaranteed, and says, "Why can't I come down here?". The answer is, as Mr Humphries indicated, that there are legal complications in doing that when you go out of the New South Wales system, and we will need corrections legislation to cover those issues. Work is going on within the department on getting drafting instructions ready for that, and it is something that was announced in the Government's forward plan for legislation. So we will be focusing on that.

I was pleased to hear, from both Mr Humphries and Ms Szuty, support for the fact that we do, in the ACT, strongly emphasise alternatives to imprisonment. Ms Szuty's comment about only some 17 per cent of prisoners on remand ending up with custodial sentences reinforces the point that we have in Canberra the lowest rate of imprisonment in Australia. That is something that I think we should be quite pleased about. Mr Humphries made the point, and he is quite right, that there are some offences for which imprisonment is the only alternative, and he voiced the hope that the prison system should have a rehabilitative aspect. I think that is a hope that we probably all have, but it is a hope that very rarely seems to be translated into reality in Australia. It is far better if we can, through non-custodial sentences, try to achieve that rehabilitative effect.

One of the pleasing features of community service orders, which are widely used in the ACT, is the very low rate at which they are breached. It does seem that the CSO system is getting a message home to individuals and is being seen as a very successful program, moving people who have gone off the rails back in the right direction. The hope that a person will go into the prison system and come out a reformed individual is a hope that successive governments have, but I do not know that any system anywhere in Australia can point to great successes on that. It does seem that alternatives to imprisonment offer us the most hope. I was pleased again that the Opposition, in particular, were acknowledging the worth of non-custodial sentences. So we have a fairly bipartisan approach in this chamber; that we do not immediately say, "Lock them up". We try other alternatives first, while recognising that imprisonment is the last resort.

The point about the Remand Centre is that our first response will be legislative, to enhance non-custodial sentences and to look at transitional programs - a legislative response before the bricks and mortar response. The bricks and mortar response addresses two issues - the Remand Centre and the possibility of a long-term custodial facility. The Remand Centre certainly is a problem. It is, as was outlined in the report, a building built to a philosophy of the 1970s - a philosophy that has been abandoned in other States. The staff out there do work in difficult conditions, and we acknowledge that.

It is perhaps worth noting, though, that there have been some reforms in the Belconnen Remand Centre which have put it in the forefront of custodial facilities in the country. That relates to the fact that for some months we have had condoms on issue for prisoners as part of our initiative against HIV. In fact this Friday I will be going there to present some certificates to Remand Centre officers who have completed the second course on HIV and AIDS. We have had training courses for our Remand Centre officers. We then introduced training courses for the remandees. We introduced condoms. We are continuing those training programs. We are getting a lot of interest from interstate in how that program is going. I am pleased to report that it is going well, with no adverse effect on discipline.

While we are cleaning up this long-term problem of the Remand Centre, we have also been focusing on juvenile justice. We noted in the report that we will not be amalgamating adult and juvenile justice because we think it is important that juvenile justice remain as a children's services welfare focus rather than be in the adult corrective system, to avoid the risk of persons having the perception that one graduates from primary school to high school, as it were, in the one system. We want to keep juvenile justice as a welfare focus.

We had major problems again with run down infrastructure there, and a situation where the only way a juvenile could be sentenced to any term of imprisonment was to send him or her to New South Wales. This Assembly, in the last couple of years, has amended the Children's Services Act to allow juveniles to serve a term of imprisonment within the ACT, so the Quamby facility now covers both remandees and persons serving periods of detention. The Government announced in last year's budget a significant sum of money for a substantial refurbishment of the Quamby juvenile justice centre. So again we have addressed, at the juvenile end of the corrections program, first a legislative response to ensure that our young people can serve out terms of detention in the ACT, thus as far as possible preserving family links, and we have a bricks and mortar response to upgrade Quamby.

To answer Ms Szuty's question about timetables, work is going on within the department, on the feasibility of a replacement for the Belconnen Remand Centre, and that will come forward in due course in the budgetary process. There will be some identification in the forward capital works program of where we are intending to spend that money, and I would anticipate that there would be some community debate, and debate in this place, about what we do.

The vexed long-term problem of the gaol for Canberra is one which the Government has responded to with some degree of caution, although acknowledging that it is a legitimate issue. Mr Humphries raised the point of the private prison. That is something that the Government has not totally closed the door on, but I note that private prisons which have been successful in Australia - there is no doubt that they have been successful - operate as a balance to a

State system. They seem to fill a particular niche in a general prison system where the bulk of detainees remain as part of a State system. I note that small jurisdictions, Tasmania and the Northern Territory, which have recently announced programs to upgrade their custodial facilities, have not gone down the private sector route. Small jurisdictions, even though one has a conservative government, and one had a Labor government but now has a Liberal government and has not changed policy, seem to be locking themselves into a government run system. That may well be an acknowledgment that, while there is a useful balance for a private sector prison in a general system, if you put all your eggs in the one basket of a private sector prison you may have some major difficulties in public policy. So I think that is an issue that would need to be thought out very carefully. The Junee facility has only just opened, and it is one that I anticipate having a look at some time this year.

Mr Berry: From inside?

MR CONNOLLY: Not from inside; no crimes with the Government, as we were referring to this morning. It is a facility within our region. It is a facility where we could well anticipate that some ACT prisoners could serve out some of their terms. While we have to accept that ACT prisoners could find themselves throughout the New South Wales system, depending on their conduct within prison and their security classifications, there is an attempt to keep them close to the region. Junee could well be a facility where ACT prisoners could spend some time. It may be worth while other members of the Assembly having a look at that. We may see whether we can organise such an event.

Mr Deputy Speaker, again I thank members for their contribution to the debate. It is significant that we have been able to conduct a debate on corrective services in the ACT in a very balanced manner. There is no doubt that the system that was inherited by this Government - indeed, it was inherited by the Alliance when they were in government - was run down. There is no quick and simple solution, but I am confident that the report *Paying the Price* pointed the way, and the Government's response does show that we are heading in the right direction. I am confident that I will be bringing into this Assembly some significant pieces of progress as the years advance.

Question resolved in the affirmative.

PUBLICATIONS CONTROL (AMENDMENT) BILL 1993

[COGNATE BILL:

FILM CLASSIFICATION (AMENDMENT) BILL 1993]

Debate resumed from 25 March 1993, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

MR DEPUTY SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Film Classification (Amendment) Bill 1993? There being no objection, that course will be followed. I remind members that, in debating order of the day No. 2, they may also address their remarks to order of the day No. 3.

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

FILM CLASSIFICATION (AMENDMENT) BILL 1993

Debate resumed from 25 March 1993, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

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

That the debate be adjourned.

The Assembly voted -

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

Question so resolved in the negative.

Debate interrupted.

ADJOURNMENT

MADAM SPEAKER: Order! It being past 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 put:

That the Assembly do now adjourn.

The Assembly voted -

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

Question so resolved in the affirmative.

Assembly adjourned at 4.37 pm

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ANSWERS TO QUESTIONS

Legislative Assembly Question No. 505

Police Force - Communications with Other Security Agencies

Mr Humphries: To ask the Attorney General - what action has the Minister taken to enhance communication facilities between the ACT Police and other security agencies such as the AFP, ASIO, ONA and the Attorney-Generals Department, highlighted as lacking, during the attack on the Iraq Embassy earlier this year.

Mr Connolly: the answer to Mr Humphries question is as follows:

The Commonwealth Government has principal responsibility for the coordination of special protection to diplomatic and consular representatives and missions in Australia.

Following the incident at the Iranian Embassy on 6 April 199?, Mr Michael Codd, the former Secretary of the Department of the Prime Minister and Cabinet, conducted a review of the existing arrangements and plans regarding counter-terrorism. In addition, the Australian Federal Police (AFP) conducted an internal review of the incident and as a result, developed a Standing Operating Procedure (SOP). The SOP clearly defines the role and responsibilities of both AFP the National component and the AFP ACT Region in respect of incidents of politically motivated violence, and the procedures to be followed upon the receipt of information relating thereto.

In furtherance of responsibilities under the National Anti-Terrorist Plan, the ACT Region is a member of the Standing Advisory Committee on Commonwealth/State Co-operation for the Protection Against Violence. It is also represented on the Special Interdepartmental Committee on Protection Against Violence (SIDC-PAV) and the Special Incidents Task Force and the Diplomatic Sub-Committee which both meet under the umbrella of SIDC-PAV.

The AFP ACT Region, through its representation on SIDC-PAV and other related committees, seeks to continually monitor and update communication facilities with a view to maximising its response capability in the event of a similar incident to that which occurred at the Iranian Embassy.

Responsibility for day to day communications between the AFP ACT Region and Commonwealth security-related agencies rests primarily with the AFP ACT Region Special Intelligence Branch (SIB).

Communications between the SIB and Commonwealth agencies, including ASIO, the Australian Protective Service, the Department of Foreign Affairs and Trade and the Protective Security Co-ordination Centre, arc frequent and often pertain to matters of intelligence relating to the security of Embassies and High Commissions.

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY
QUESTION NO. 540

Housing Trust Properties - Lyneham and Dickson

MR CORNWELL: Asked the Minister for Housing and Community Services -

(1) When is it anticipated Housing Trust properties along Northbourne Avenue at Lyneham and Dickson will be redeveloped.

(2) Is it intended the same density will be maintained.

(3) What is the total number of flats currently at (a) Lyneham and (b) Dickson in these complexes.

(4) How old are the properties in question.

(5) Will it be possible to examine the proposed designs for the redevelopment, and if so, where and when.

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

(1) There are no current plans to redevelop these properties.

(2) Not applicable.

(3) (a) 55, (b) 21.

(4) Approximately 31 years.

(5) Not applicable.

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MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO. 567

Housing Trust - Tertiary Student Tenants

MR MOORE - Asked the Minister for Housing and Community Services -

(1) How many tertiary students are living in ACT Housing Trust accommodation and of these students how many are (a) ANU students and (b) UCAN students.

(2) How many tertiary students receive rent relief from Housing Trust accommodation and of these students how many are (a) ANU students and (b) UCAN students.

(3) What was the total cost to the Housing Trust of rental relief granted to tertiary students.

(4) How has the ANU sale of rental housing in the Inner-North affected rental availability in those areas.

(5) Has there been an increase in tertiary students applying for rental relief and accommodation with the Housing Trust in the last three months.

(6) What is the status of Housing Trust or NCDC houses that were granted to the ANU in previous years.

(7) On what basis has the NCDC or the NCPA granted houses to the ANU in past years.

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

(1) Currently 63 tenants state that their prime source of income is AUSTUDY. This information cannot be separated into (a) ANU and (b) UCAN students.

(2) This information is not available. Students are not asked to provide information about the education institute they attend.

(3) See (2) above.

(4) This information is not available.

(5) This information is not readily available.

(6) This information is not available.

(7) This information is not available.

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 586

Housing Trust Properties - OConnor and Ainslie

MR CORNWELL: Asked the Minister for Housing and Community Services - ACT Gazette No.7 dated 17 February 1993 contains details of contracts relating to the construction of 36 townhouses, 6 x 1.5 bedroom flats and 6 x 1 bedroom units in OConnor and Ainslie

(1) What properties are currently on those 17 blocks which will be occupied by these new properties.

(2) Will the current occupants of those 17 properties be offered accommodation in the new complexes.

(3) If so, how will the size of the property they will be offered be determined.

(4) What effect will the construction of the new properties have on the density of ACT Housing Trust properties compared to private properties in those suburbs.

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

(1) Each block is currently occupied by one house.

(2) Yes, if appropriate.

(3) Allocation of Housing Trust properties is determined by eligibility criteria, which takes into account the size of the family to be housed.

(4) The effect will be insignificant.

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MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 602

Holder High School Building

Mr Cornwell - asked the Minister for Urban Services:

(1) What is the (a) short term and (b) long term future of Holder High School.

What security measures are in place to prevent the building being vandalised.

What is the cost of such security.

(4) When will the long term future of the buildings be determined.

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

(1) (a) & (b)

The former Holder High School is currently vacant. The ACT Planning Authority is reviewing the land use policies for the property (Block 1 Section 45, Holder). This will result in a draft Variation to the Territory Plan being publicly exhibited prior to submission to the Government and the Assembly. Until this process is completed, it is not possible to specify the long term future of the former school.

(2) Intruder alarms installed in the building are operational.

(3) $3000 per annum.

(4) See (1).

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MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 618

North Curtin Primary School Building

Mr Cornwell - asked the Minister for Urban Services: In relation to the old North Curtin Primary School

(1) When was the school closed.

(2) What is it currently being used for.

(3) What is its intended use and when might this occur.

(4) What procedures are in place to prevent vandalism.

(5) What is the cost of the service, if any at (4).

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

(1) The end of the 1990 school year.

(2) & (3)

Part of the former school along the Storey Street frontage has been let to community group tenants and a child care centre. The tenanted area comprises 911 sq metres of the total floor area of 4030 sq metres. The Headquarters functions of the ACT Fire and Emergency Services are to be located in this space and initial elements of Fire and Emergency Services will move in by June 1993.

(4) Nightly security patrols are in place to counter vandalism.

(5) $24.50 per week, or $1274.00 per annum.

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MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 633

Library Service - Salaries and Overtime Expenditure

Mr De Domenico - asked the Minister for Urban Services: In relation to ACT Library Service Administration -

(1) How much is spent in salaries.

(2) What component is overtime.

(3) How much overtime was paid to each ASO level.

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

(1) Total salaries for the 1991/92 financial year, being the last complete year for which figures are available, were $238 393.

(2) The overtime component for the same period was $58 205.

(3) Overtime payments for each ASO level were:

ASO 6 $21 224
ASO 5 $9 526
ASO 3 $5 862
ASO 2 Nil
Industrial Employees $21 593.

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INISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 635

Litter Cigarette Butts

Mr Westende - asked the Minister for Urban Services: In view of the Governments promotion of litter reduction will action be taken to prevent people from discarding cigarette butts on the ground outside the entrance to buildings or in other public places such as footpaths and shopping centres.

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

The current litter reduction program is focused on roadside litter. The inspectorate force conducts regular mobile patrols with notices issued to motorists observed discarding litter from moving vehicles.

In general, discarded cigarette butts are not considered a problem around shopping centres, footpaths and many other public areas because the areas are cleaned on a regular basis.

Although the problem of cigarette butts at the entrances of owned or rented Government accommodation is acknowledged, it is, principally, the responsibility of the respective Department, or the building owner, to enforce as the extinguished butts are usually dropped within the building line. Enforcement of littering provisions can be applied to offences in public places only.

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MINISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 638

Traffic and Pedestrian Study - Hughes and Garran

Mr Westende - asked the Minister for Urban Services - In relation to the Hughes/Garran Traffic and Pedestrian Study

(1) Is the Minister satisfied that there has been adequate community consultation.
(2) Have the views of the residents of Hughes and Garran played any part in the final recommendations of the consultant; and what are these recommendations.
(3) As the residents of Hughes and Garran generally want to see a reduction in traffic through their suburbs will the recommendations of the consultant achieve this and at what cost.
(4) As one of the main contributing factors to the traffic volumes through Hughes and Garran is believed to be caused by people travelling to the Woden Valley Hospital via Kent and Kitchener Streets instead of travelling via Yarra Glen and Yamba Drive, could some consideration be given to providing clearer signage to the hospital at the Adelaide Avenue/Kent Street junction that would direct traffic along Yarra Glen.
(5) Has consideration been given to constructing roundabouts at the Yamba Drive/Wisdom Street/Launceston Street intersection and the Yamba Drive/Kitchener Street/Ainsworth Street to free up traffic flow along Yamba Drive which may encourage more people to use this route to the hospital instead of a supposed short cut through Hughes and Garran.
(6) Has consideration been given to closing Kent Street at the Northern side of Carruthers Street to stop the through traffic flow through Hughes and Garran from Adelaide Avenue.
(7) Has consideration been given to trialing a roundabout at the intersection of Gilmore Crescent and Kitchener Street and at Gilmore Crescent and Palmer Street.
(8) Has consideration been given to redesigning the Yarra Glen/Melrose Drive/Yamba Drive roundabout.
(9) Has the Government taken cognisance of the views of the Council of the Ageing and their suggestion for a roundabout at Hughes Park to still retain viability of the Hughes Shopping Centre.

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

(1) Yes. There has been extensive public consultation with the Hughes and Garran community, consisting of three public meetings (two with the community and one with street representatives elected by the community to represent their views), a questionnaire, information leaflets which were hand delivered to each household in the area and a public display at the Hughes shops accompanied by questionnaire forms to enable the community to respond to the display.

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I am considering the value of a further public meeting to discuss the results of the evaluation of two additional schemes suggested by the community at the public meeting on 17 March 1993. However, all residents in Hughes and Garran will be advised by post and given the opportunity to see the results of the evaluation of these schemes and provide their views to the consultant. I have asked that the consultant advise the residents before the end of April; the final report of the study will be made public before the end of June 1993.

(2) The consultant has not yet made any recommendations.

(3) The recommendations of the consultant will be provided to me in a report which I will make public before the end of June 1993. The consultants recommended scheme will address the objectives of the study, one of which is to reduce through traffic. The scheme will be fully evaluated and costed.

(4) The existing signage provided at the intersection of Adelaide Avenue with Kent Street clearly directs traffic to Woden Valley Hospital along Adelaide Avenue and Yarra Glen.

(5) Yes. The installation of roundabouts has been considered and rejected as unsuitable for traffic control at the intersections of Yamba Drive with Kitchener Street, Wisdom Street and Launceston Street. The use of roundabouts can reduce delays in some circumstances, but because of their in-built priority rule, can lead to situations during peak periods where side road traffic can take priority over the major road, thereby making the side roads more attractive for through trips. Control by signals allows priority to be retained on the major road, with traffic access into and out of the side roads being restricted through signal timings. In addition, the computer linking of signals along Yamba Drive can reduce delays and further enhance the attractiveness of this route for through traffic.

The issue of traffic improvements at the intersections of Yamba Drive with Wisdom Street and with Launceston Street has been recently investigated, and signals will be installed this year at Wisdom Street. This investigation included extensive consultation with Hughes residents who endorsed the signals option.

(6) In addition to the scheme which was agreed by the street representatives and presented to the public meeting on 17 March 1993, two further schemes were suggested by the community at that meeting, and will be fully evaluated. One of those schemes includes the redirection of traffic on Kent Street into Carruthers Street, in order to prevent traffic from Kent Street travelling through into Hughes and Garran.

(7) The scheme which was agreed by the street representatives and presented to the public meeting on 17 March 1993 showed a roundabout at the intersection of Gilmore Crescent and Palmer Street, but did not show a roundabout at the intersection of Gilmore Crescent and Kitchener Street. There was no significant support for this latter roundabout in the public responses to the scheme.

(8) Yes. I recently announced a project to substantially improve safety at this roundabout. Funding for this project has been approved as part of the Federal Governments Black Spot Program.

(9) Yes. I have written to Mrs Sue Doobov, Executive Director, Council for the Ageing (ACT), on this matter.

MINISTER FOR URBAN SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 670

Director of City Services

Mr Kaine - asked the minister for Urban Services:

(1) Will the Minister confirm that the current Director of ACT City Services is Ms Annie Austin.

(2) .If so, will the Minister indicate (a) is Ms Austin the same person previously employed under contract by ACT health; (b) by what process was Ms Austin selected and appointed as Director, ACT City Services; (c) is Ms Austin and ACT Government Service employee, a contractor or consultant; (d) what are the terms and conditions of her appointment (e) when was the appointment made and (f) what is the period of the appointment.

(3) Is Ms Austin or any organisation of which Ms Austin is a principal or has a financial interest in, or could expect a financial benefit from, contemporaneously engaged as a consultant or contractor in any other capacity to the ACT Government Service or its affiliated agencies.

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

(1) Yes.

(2)(a) Ms Austin was previously employed by ACT Health; (b) Ms Austin was appointed as the result of a normal public service merit selection process. This included the public advertisement of the vacancy, interview by a panel which included a Public Service Commission Nominee, in this case a First Assistant Commissioner of the Public Service Commission, and finally, the approval of the Public Service Commissioner; (c) Ms Austin is an ACT Government Service employee appointed under the Public Service Act; (d) Ms Austin is appointed on the basis of the normal Senior Executive Service conditions applicable to the position; (e) 19 January 1993 and (f) the appointment is until 17 January 1995.

(3) No.