DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

20 October 1993

Wednesday, 20 October 1993

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

SCHOOL BASED POSITIONS

Debate resumed from 13 October 1993, on motion by **Ms Szuty**:

> That this Assembly instructs the Minister for Education and Training to maintain all school based positions targeted in the 1993-94 Budget.

MR HUMPHRIES (10.31): On the previous occasion on which we debated this matter I spoke about assessing priorities within the education budget, and I made the observation that the Liberal Party in government had reached a very clear decision that what was important about the education system was not buildings but teachers. As such, we adopted a policy which focused on the retention of teacher numbers - - -

Mr Wood: Actually, the kids are the ones that are important.

MR HUMPHRIES: I am talking about what delivers a good quality of service to children. Obviously, children are important; but how to give them those high-quality services is the next most important thing. In respect of that, of course, the issue that we determined to be most important was maintaining teacher numbers and retaining the quality of classroom teaching.

Madam Speaker, we have in this debate three fairly clear positions. The position, first of all, of the Labor Government is that we should save school buildings - they have a commitment, in the course of this Assembly at least, to do that - and that we can afford to cut teacher numbers; teacher numbers are a less important priority than preserving school buildings. The position of my party is the reverse of that. We believe that teacher numbers are worth preserving, worth saving, but that there is some scope to rationalise the school infrastructure. The position of the Independents, the third position in this debate, is basically that we should save both teacher numbers and school buildings. I want to examine each of those three positions from the point of view of which of the three is the best position to be in.

The Independents, first of all, argue that we can preserve basically all the important features of the present education system. Indeed, Ms Szuty last week said that we should spend more on education. I would support the sentiment of that suggestion but condemn the unreality, the grandly unrealistic approach, which is embodied in those comments. It is, in some respects, a supreme statement of the Independents' credo that they are prepared to support all these measures, but they acknowledge that they will not be put in a position of having to actually implement those sorts of decisions and therefore rationalise resources, as one inevitably has to do in government.

Madam Speaker, Ms Szuty is right when she says that the Grants Commission does not determine the ACT Government's priorities. Of course it does not. But what it does do is strongly influence them; and it does point out why and in what areas we are spending more money on particular services or, in some cases, less money on particular services than are other States. The Grants Commission, in this respect, is extremely clear. In the most recent edition of the *Trends* magazine one can see on page 10 a table which sets out the extent of expenditure variation from the national norm in each of the areas of ACT budget outlay. At the top of that list - for obvious reasons, because of what appears in the second column - is education. As at the day of publication of this document, education is $29.9m overspent by State standards. That is 13.5 per cent above the State expenditure. Health is $9.6m or 4.9 per cent overspent.

Clearly, Madam Speaker, education is an area where we need to be focusing very heavily. Education is more seriously overspent in dollar terms than any other part of the ACT budget. Thirty million dollars cannot be ignored. We cannot argue that this should somehow be put to one side, because the corollary of doing so is that we say that we therefore have to put the onus of cuts on health, public safety, services to welfare recipients, public transport or some other important area of the administration, and of course we cannot do that. Alternatively, it means that we must raise substantially more revenue than we are doing at the present time. The ACT, as this report indicates clearly, is already, by the State norm, about to raise more money than previously was the case. We are certainly going to overachieve in the area of expenditure as a result of this budget. Madam Speaker, the question becomes: What do we prioritise and what do we look at to make those sorts of rationalisations? The Independents' position, I would respectfully suggest, is not tenable. We cannot ignore the excesses in outlays by State standards. Even if we decide to adopt different priorities, if we decide to put more in certain areas, we cannot ignore the messages that are contained in the Grants Commission report.

The Labor Party's position at least acknowledges the reality of that fact, to some extent, although I might observe that the $3m or so cut which has been effected in this budget deals with only about 10 per cent of the Grants Commission's identified overexpenditure. But at least the ALP position acknowledges that there is a need to consider the question of how to rein in education spending. *(Extension of time granted)* The ALP rode into office on the back of the public school lobby. It promised, "We will save public education". The school community, with respect, was duped when it received that promise. It thought it was getting a champion of public education. Instead, it got a government which simply was prepared to cut in a different way to the previous Government. That is the essential difference - not that there was any greater commitment to public education, but that they were going to make cuts in a different way and, I would suggest, a much worse way.

The question that this debate gives rise to, the question which nobody has yet actually acknowledged, is a simple question: If you are going to make cuts to public education, what is the better way to achieve those cuts? Which is more important - school buildings or classroom teaching? My party is clear in that respect.

Mr Connolly: So you are opposed to Lanyon High School? The kids at Lanyon should not have their school; is that right?

MR HUMPHRIES: My party is clear in this respect. We do not believe that we can, in all conscience, cut classroom teaching when there are savings to be made in the area of public infrastructure - and I am not talking about new buildings. Of course Lanyon High School should go ahead, Mr Connolly.

Madam Speaker, I think that the link between the distance a child travels to school and the quality of education that child obtains in that school has not been established in this debate. My view is that we should continue to ask for, and demand, some honesty from the education sector about what they believe is the better option. I think any honest parent in this debate, if asked the question, "What would you rather see cut?", would in all honesty have to say that they would rather preserve the quality of classroom teaching. That would have to be the honest answer to give.

Mr Wood maintains that we are not actually talking about cutting classroom quality because we can maintain teacher numbers despite these 80 positions being cut. His answer to the question that was put to him in another place was that these cuts could be sustained entirely through cuts in administrative positions.

Mr Wood: No, I did not say that.

MR HUMPHRIES: You did say that.

Mr Wood: No.

MR HUMPHRIES: You did say that. You said that you believed that there was nothing inevitable about these cuts affecting any teachers at all.

Mr Wood: Affecting classes, Mr Humphries.

MR HUMPHRIES: Classroom teaching is what we are talking about.

Mr Wood: No; I am talking about classes.

MR HUMPHRIES: No. You said "teacher numbers", Mr Wood. If you examine the record you will see that that is the case. Of course, that comment was utter garbage. There is no way that 80 positions can be taken from schools, particularly when schools themselves are to make the decision about where those cuts come from, and that schools can at the same time sustain classroom teacher numbers at the present levels. They cannot do so.

Is this important? Is it important to retain classroom teacher numbers? The answer, of course, is yes; and I cite as my authority for that proposition the Minister for Education himself, who in releasing the ALP policy document on education in February 1989 said - this is a promise:

> The size of classes at all levels is an important determinant of the quality of education. An ALP Government will aim to reduce class size, particularly in primary schools.

The question put to Mr Wood in the Estimates Committee was:

> Are you going to breach that promise by now taking 80 positions out of the education system?

The Minister weaselled out of that question by saying:

> Well, they might not come from teachers. They might come from administrative positions.

Of course, Madam Speaker, that was disingenuous. It cannot happen. The ALP knows perfectly well that these cuts will come from classroom teaching, and it has abrogated the promise it made to the people of the ACT.

We need to assess where we are going in education. I maintain that my party's position on this is greatly superior to that of the Labor Party. It is much easier to maintain the position of the Independents and say that we do not need any cuts at all, but that is not tenable.

Mr Moore: It is a question of priorities.

MR HUMPHRIES: We cannot reprioritise to get rid of the need to cut altogether. If you are going to cut, it makes infinitely more sense to cut buildings rather than people. Madam Speaker, as I say, I support this motion. I think it is a motion which says, "The cakes are in the oven and they are burning, so will someone please take them out, although I will not do it myself?". That is what the Independents are saying. I think that is not an intellectually sound position, but I believe that we ought to support the motion because we should make a point about the importance of classes, classroom teaching and teachers themselves.

MS SZUTY (10.42), in reply: I would like to take up a number of points that various speakers in this debate have made. Of course, the majority of speakers spoke on this issue last week during private members business. I would like to begin with some of the comments which were made by the Chief Minister in her remarks. She said that the ACT has received a much reduced funding grant from the Commonwealth Government. I acknowledge that this is, in fact, a reality - that we have suffered very much at the hands of the Commonwealth Government in the allocation of funds to States and Territories.

Ms Follett went on to say that all programs have been required to make reductions. I found that a very interesting comment put next to the comment about the high priority of education. It seems clear to me that education in the ACT does not have a high priority, because it has been savagely targeted for cuts by Ms Follett's Government. We are looking at a $25m funding reduction to be phased in over four years, as Ms Follett said. Where is the four-year plan? Where is the long-term plan which has been identified by this Government to reduce funding by that level over four years? Who will be involved in that process? To what extent will parents, teachers, students and members of the community participate in that process? It seems to me that we have a very shallowly thought through solution from the Minister for Education and the Follett Government at the moment that 80 school based positions will be cut from the school system.

Ms Follett went on to say that this motion before the Assembly was a political response to a political issue. It is much more than that. It is not simply Michael Moore and I who are concerned about this issue. As I mentioned before, it is many members of our community; it is the teachers who held a stop-work meeting some time ago and who intend to take further industrial action at the end of this month to demonstrate the strength of their feeling on the subject. I acknowledge, as the Chief Minister has said, that this was a difficult decision for her Government to make. It is also the wrong decision. Simply because a decision has been difficult, it certainly does not mean that it has been right.

I am very pleased that Mr Cornwell indicated that the Liberals will support this motion before the Assembly. However, he indicated that Michael Moore and I had perhaps betrayed the education community in not going further and amending the Appropriation Bill; but I point out to Mr Cornwell that Michael Moore's position, and my position, on education has always been consistent. We have always rated education as a very high priority both in our platform and in the dealings that we have had in this Assembly. Mr Cornwell made the very important point, however, that comparisons of our expenditure on our education system with other States and Territories does not take into account the quality of education that is delivered. We are talking about the possible reduction in the quality of education for our children as a result of the loss of these school based positions. I certainly welcome the Liberal support for the construction of Lanyon High School and schools in Gungahlin. I believe that we had that support clarified last week.

Mr Moore mentioned that teachers had attended a stop-work meeting and were going on strike later this month. In fact, the stop-work meeting held several weeks ago was extremely well attended by teachers and principals alike. A very high proportion of our teaching service was present. Something like 85 to 90 per cent of those in our teaching service in the ACT felt concerned enough to attend the stop-work meeting at Bruce Stadium on this issue.

Mr Moore: You would never get a meeting of the public service union with those numbers.

MS SZUTY: As Mr Moore has indicated, if 85 to 90 per cent of our public servants attended a stop-work meeting or took industrial action, then we would have a very serious situation on our hands. Certainly, the attendance at the stop-work meeting indicates that the situation is very serious from the teachers' point of view. Mr Moore also reminded us that a high-quality education for our children is the outcome that we want. That is the reason that this motion is being debated in the Assembly. Michael Moore and I have a very great interest in the high quality of education which has been delivered to our children and which we want to continue. The Minister for Education, Mr Wood, indicated that Michael Moore and I had taken a belated interest in education spending. The way that I am sure Mr Moore and I would respond to that comment is to say that we have not needed to respond before now. Now we need to respond to the Minister's decision, and we have so responded.

Mr Wood also mentioned that there was speculation around some time ago that there would be staffing cuts in the budget this year. But speculation is just that - speculation. We have to wait and see what is in the Government's budget before we respond to that situation. It is the Government's responsibility to develop the budget, not Michael Moore's or mine. We acknowledge that the situation will be

different next year when we consider the reduction of teacher numbers in next year's budget. The Minister has admitted that the ACT Labor Government cannot successfully negotiate with their Federal Labor colleagues. That, to me, is a very frank admission. We have continuing reductions in grants to the ACT, and it seems to me that we are increasingly in a more difficult position. I really wonder what the strength of the relationship is between this ACT Labor Government and their Federal colleagues.

Mr Wood asked the question, "What is a recurrent budget surplus?". It is simply a reserve. It is money that will not be spent at the end of the 1993-94 financial year. So what on earth are we cutting teaching positions for if we are going to end up with a recurrent budget surplus at the end of the day? Michael Moore and I might well wonder what the Government's commitment to public education in the next election will be. Mr Humphries has speculated about that very matter this morning. How can the community believe that this Labor Government has a high commitment to public education in the ACT, given the reductions in teaching numbers they are now contemplating?

Mr Wood also commented on the question of school closures. I certainly have never suggested that I would support the closure of schools. That commitment has been very clear from Michael Moore and me. The Minister also indicated that there would be no diminution of the quality of education as a result of the loss of teaching positions. What an extraordinary statement from someone who has been extensively involved in the education system over some years!

Mr Stevenson also contributed to this debate. He asked the question, "Does the community support the cutting of teaching positions?". The answer to that question is clearly no. It is a very important point that Mr Stevenson raised. Mr Humphries this morning, and last week as well, talked about the fact that teachers are a vitally important component of our education system; but I would also argue, and I am sure Michael Moore would argue too, that buildings are also important. Buildings relate to our neighbourhood school system in the ACT - a system that we value and one that we would not want to see destroyed by the closure of schools.

Madam Speaker, the speakers in this debate have regarded the proposed cutting of 80 school based positions as a serious matter and one which potentially threatens the delivery of high-quality education services for our children. I, along with my fellow Assembly members, teachers, parents, students, principals and members of the community, will wait with anticipation to see how the Government will now respond in the light of this motion, which I expect will be passed this morning. In fact, we are still awaiting the outcome of consultative processes regarding the loss of these positions. Indications that have been received over the weekend would suggest that colleges will be completely reorganising themselves as a result of this decision. Is this what we want for public education in the ACT? *(Extension of time granted)* It only remains for me to say that I commend the motion to the Assembly.

Question put:

> That the motion (**Ms Szuty's**) be agreed to.

The Assembly voted -

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

Question so resolved in the affirmative.

DISCHARGE OF ORDERS OF THE DAY

MR MOORE (10.55): Madam Speaker, pursuant to standing order 152, I move:

> That order of the day No. 2, private members business, relating to the Land (Planning and Environment) (Amendment) Bill (No. 2) 1993, be discharged from the notice paper.

I should explain why I am moving this motion, Madam Speaker. I introduced this Bill into the Assembly to deal with betterment. The matter was largely dealt with by a regulation, which is the most sensible way to deal with it, by the Minister. Therefore, I think it is appropriate that the Bill be withdrawn while I examine the best way to try to get 100 per cent betterment to apply to residential as well as commercial sites.

Question resolved in the affirmative.

MRS CARNELL (Leader of the Opposition) (10.56): I ask for leave to move a motion concerning the discharge of order of the day No. 9, private members business, relating to the Tuberculosis (Repeal) Bill 1992.

Leave granted.

MRS CARNELL: I move:

> That order of the day No. 9, private members business, relating to the Tuberculosis (Repeal) Bill 1992, be discharged from the notice paper.

Madam Speaker, I am moving to have this Bill discharged today at the request of Mr Berry. Mr Berry asked that this be done because he and his department were embarking on a review of public health legislation with respect to this issue. That request was made during the Estimates Committee procedure.

Madam Speaker, on 12 February this year I wrote to Mr Berry asking him for his response to two of the Bills that I currently have on the table - the Tuberculosis (Repeal) Bill and the HIV Notification (Liability of Medical Practitioners) Bill. I wrote this letter in obviously a vain hope of achieving a more positive approach to important health issues.

Madam Speaker, instead of replying to my letter, Mr Berry put out a media release on the TB issue a few days after my letter. Apart from it being exceedingly bad manners to respond to my letter by a media release, it was not even copied to me. The media release did not say, "Please, Mrs Carnell, could you take your Bill off the notice paper, because we are reviewing the issue that you are talking about". The media release was headed "Liberal proposal places public health at risk". Mr Berry, if that was a request to withdraw my Bill, I think you had better have new people draft your media releases.

Madam Speaker, mass radiological screening is an outmoded measure, and I know that Mr Berry and his department agree with that. It is neither cost-effective nor appropriate in stopping the spread of TB. The NHMRC have recommended that community-wide screening such as chest X-rays, Mantoux testing and BCG vaccination are no longer a requirement for the general public. I know that Mr Berry's own public health area agree totally. The reason I brought up this Bill - if you look back to my tabling speech you will see - is that I believe very strongly that public health legislation needs to be reviewed on a regular basis. This legislation was brought in in 1950 and has been replaced by various other pieces of legislation. In fact, the Parliamentary Counsel, in a letter in response to my drafting request, said:

> I have taken the liberty of comparing the TB Act with the Public Health (Tuberculosis) Regulations and Public Health (Infectious and Notifiable Diseases) Regulations. Subject to one exception, provisions with similar effect to those in the TB Act -

the one that my Bill was seeking to get rid of - appear in one or other of those pieces of legislation. The letter continued:

> The exception relates to mass screening for tuberculosis. There does not appear to be a provision in either piece of legislation ...

Madam Speaker, in an attempt to make sure that public health legislation actually reflected the current state of medical practice, I chose to withdraw my Bill; but I am very pleased to hear that Mr Berry and his department are going down the track of a much wider review of public health regulation. On that basis I will comply with Mr Berry's request and ask that the Bill be removed from the notice paper.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (11.01): I am glad that at last Mrs Carnell has seen the good sense of the Government's position in relation to this matter, which has been around for some time. It is very clear that from the outset this was a bright idea which was designed to grab a headline, and it probably did. I do not recall now whether it did, but it was certainly designed to do so and to try to make the Government's approach to these sorts of things look inadequate. When it comes

to the provisions of the Act to which Mrs Carnell refers, mass screening has not happened for ages. But you do not just scrub out one piece of legislation without looking at the whole package. Mrs Carnell was not prepared to look at the whole package. That is the hard work. All she was interested in was pulling the cheap stunt and going for a cheap headline. She is to be severely criticised for that and warned against doing it again.

Question resolved in the affirmative.

BAIL (AMENDMENT) BILL 1992

[COGNATE BILL:

BAIL (AMENDMENT) BILL (NO. 3) 1992]

Debate resumed from 25 November 1992, on motion by **Mr Humphries**:

> That this Bill be agreed to in principle.

MADAM SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Bail (Amendment) Bill (No. 3) 1992? There being no objection, that course will be followed. I remind members that in debating order of the day No. 3 they may also address their remarks to order of the day No. 4.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.02): Madam Speaker, the two bail amendment Bills that have been presented by Mr Humphries are going to be opposed by the Government. Mr Humphries has moved two amendments. One is a precise duplicate of the amendment that Mr Humphries moved during the detail stage of the debate on the Bail Bill. It was a significant improvement upon amendments similar in tone that were moved by Mr Stefaniak in the former Assembly when the Bail Bill lapsed. What Mr Humphries is proposing is to have a new presumption in the Bill that, if you are charged with an offence which it is alleged that you committed while you were on bail, it will be much harder for you to get bail. In speaking to this amendment in the original debate on the Bill I said:

> Mr Humphries introduces these amendments and says that the bail legislation should not just protect the interests of the accused; it should protect the interests of the community, and the community ought to be concerned about persons who, while on bail, commit further offences.

I said at the time, and I say again, that I can agree with what Mr Humphries says in relation to that.

The issue of persons committing offences while on bail was an issue that the Government was very conscious of when it brought the Bail Bill before the Assembly. That is why our Bail Act differs quite significantly from the Bail Act of New South Wales on which it was otherwise generally based. The Bail Act in New South Wales says that you can consider the likelihood of reoffending where you are considering a bail application only if it relates to sexual offences or violent offences. We very consciously deleted that qualification, so that there are three criteria to be taken into account for a grant of bail - the protection of the

community against interference with evidence or intimidation of witnesses; the likelihood of a person harassing other persons; and, thirdly, the one that is relevant here, the likelihood of a person committing any offence, not just, as in New South Wales, a sexual or violent offence but any offence at all, while released on bail.

The alleged problem that Mr Humphries was referring to was the anecdotal evidence we hear about a person who is charged with housebreaking offences and is bailed and who goes out and commits further housebreaking offences and again gets bail. It has been the clear intention of this Assembly that the fact that you have committed offences while on bail is taken into account against you in your application for bail. It was the clear intention of this Assembly in passing that original Bail Act that we are to be much tougher than New South Wales in that you look at the likelihood of any reoffending, not just reoffending on a violent or sexual offence matter.

Madam Speaker, I am certainly aware, as no doubt Mr Humphries is, because no doubt it was what prompted him to move this amendment, that there is an anecdotal view within the police force that there is a vast raft of people who are committing offences while on bail and that the courts are too lenient in granting bail. I have asked the Federal Police to keep a very close watch on this and to advise me of situations where they believe that bail has been inappropriately granted. I have indicated to the police and to the Director of Public Prosecutions that in appropriate cases, if there is a view that the ACT courts are being too lenient and are not acting on the clear intention of this Assembly in passing the Bail Act - that is, taking into account reoffending in every case - if there is a belief that the ACT courts are acting perhaps more along the lines of New South Wales where you look at the likelihood of reoffending only if it is a sexual or violent offence matter, I would be happy to have those matters appealed.

If grants of bail are being made in the Magistrates Court which seem to be inappropriate, I would be happy to appeal those matters to the Supreme Court and read into the court the *Hansard* report of what was said in the Assembly. The courts, in construing the Bail Act, are, of course, entitled to look at the debates. It was made very clear in the debates in this place that our intention was to be more rigorous than New South Wales. Our intention was that reoffending while on bail is a relevant factor, and the likelihood of reoffending is relevant to any offence, not just, as in New South Wales, to sexual offences or violent offences.

Given that our legislation is more rigorous, and given, Madam Speaker, that we have not yet had a situation arise where we have had a case which appears to be dramatically too lenient and we have appealed all the way up to the Supreme Court, I think Mr Humphries's amendment should be opposed for the same reasons that we gave earlier. It is a dangerous thing to remove a presumption. At the end of the day the person who is charged with committing an offence while on bail, having been charged with committing previous offences, still has not been convicted of any offence. A person is entitled to be presumed to be innocent until they are found guilty. Once you tamper with that and start having presumptions against bail you are moving down very shaky paths indeed. We have these basic presumptions in our legal system which go back centuries, and I would suggest to any members that before you interfere with those you need to have very strong grounds for doing so.

Madam Speaker, the Government does not believe that the grounds are there. We believe that the legislation, as passed by this Assembly, was deliberately tougher than the New South Wales model. It deliberately directed the courts to always look at the likelihood of reoffending, and not just in very specific circumstances. While there certainly are anecdotal views in the police force that bail is too easily granted in the ACT - I suspect that you may find that anecdotal view in any police force anywhere in the world - I have not had brought to my attention situations where bail was so clearly granted without taking into account the likelihood of reoffending that we had the appropriate grounds to go to the Supreme Court. I certainly have instructed the police to keep monitoring that and, if we find an appropriate case, to go to the court and put clearly before the court the intention of this Assembly which was expressed in that in-principle debate in May 1992. So, Madam Speaker, the Government opposes the first amendment which attempts to alter that presumption.

Mr Humphries's second amendment goes to the issue of bail and domestic violence. Madam Speaker, this is an issue that the Assembly itself revisited last year on the basis of an amendment that the Government brought forward where an error or a hole in the original Bail Bill was identified. That was because the original Bail Bill made it clear that bail was to be automatically granted where the maximum penalty for an offence was imprisonment for less than six months. The reasons for that were plain and sensible. It received the unanimous support of the Assembly at the time. The reason for that was that for those more minor matters you could well have a situation where a person was held in remand for a longer period than the maximum penalty that a court could have imposed. The Assembly took the view that bail should be granted for those minor offences. It was pointed out, and I think Mr Humphries amongst others drew this to the Government's attention later - I think the same community advocates brought it to the Opposition's attention as brought it to the Government's attention - that some offences under the domestic violence laws carried a maximum penalty of less than six months.

So we had a situation where the Bail Act, in its original form, specifically excluded remand for breaches of domestic violence orders. That was clearly inappropriate because there may be situations under the Domestic Violence Act where, while the maximum period of imprisonment that eventually could be handed down by a court is less than six months, it may be very important that persons be held on remand, if only to demonstrate to them the seriousness of a domestic violence order breaches, and certainly to provide protection for the subject of the domestic violence order. We are all aware of a situation in the ACT a couple of years ago when a person who was charged with breach of a domestic violence order went on to commit a murder. That is something that obviously we need to protect against. The Assembly did that in its amendments to section 7 of the Act that were debated later in 1992, in fact in the December sittings in the closing days of this Assembly before last Christmas. Mr Humphries's amendment, though, goes further than that and it, in effect, creates preventative detention. It says that bail will not be granted where a person is charged with breaching a domestic violence order.

Mr Humphries: By a policeman.

MR CONNOLLY: By a police officer. That is a very significant move. That basically says that if you are charged with breach of a domestic violence order you shall be held in custody. You have not been found guilty of any offence, you have merely been charged, and you shall be held in custody.

Mr Humphries may say, "There is safety there because the police officer has laid the charge". The police officer should be laying charges where the police officer believes that there may have been an offence. There are criteria laid down in police operational instructions and in the Director of Public Prosecutions' annual report which indicate essentially that a police officer should be laying charges if he thinks there are sufficient grounds to believe that an offence may have occurred. But the police officer is not and never has been the judge and jury. The police officer is not making a finding of guilt. The police officer is merely saying that he believes that there is sufficient evidence to indicate that the law may have been breached.

To have preventative detention is a very serious issue of principle. That is not to say that there may not be cases where it could be appropriate. Clearly, domestic violence is an issue that this Assembly feels strongly about. There seems to be overwhelming support in the Assembly for the proposition that the ACT should continue to lead the field in relation to domestic violence. There have been arguments from persons who are very well versed with issues of domestic violence that preventative detention, along the lines that Mr Humphries is proposing, could be a good thing.

The Government, at the moment, has a major reference running with the Community Law Reform Committee and I think that only last week we debated that major research paper that the Community Law Reform Committee prepared on domestic violence. One of the issues that are being debated through that forum is the issue of the use of preventative detention. At the end of the day when we have been through that full community consultation process through the Community Law Reform Committee, which does involve extensive public hearings and extensive debate, if the Community Law Reform Committee reports that it is the overwhelming view of that committee that we introduce preventative detention the Government would have no difficulty with accepting such a law.

At this stage, Madam Speaker, it is a very drastic step to take on a matter that is currently out for consultation. It is a very drastic issue of principle to say that once you are charged you shall not get bail; once you are charged you must be held in custody. That is an extraordinarily serious step for the Assembly to take. I would urge members of the Assembly to not do that at this stage. That is not to say that at a future time, when this Assembly has before it the benefit of the considered views of the Community Law Reform Committee, we may not feel comfortable with taking precisely the step that Mr Humphries proposes; but at this stage, Madam Speaker, the jury is still out in the sense that the Community Law Reform Committee is still debating this issue within the community.

There will be strong views presented to the Community Law Reform Committee that will suggest that we should have preventative detention. There will be equally strong views that will suggest that we should not have preventative detention on the basis that it is a very significant infringement of a very basic, fundamental liberty. This goes further than a presumption against bail. This is preventative detention in its purest form. Again, at the end of the day, when the Assembly has the benefit of that full consultation process, it may feel confident in taking that step. I would urge members not to take that step today. For those reasons, Madam Speaker, the Government will be opposing both of Mr Humphries's amendments.

MS SZUTY (11.15): Madam Speaker, the Bail (Amendment) Bill 1992 that Mr Humphries introduced was introduced at a time when the Government had recently brought into statutory law common law practices of the courts in granting bail. A gap was subsequently found in the legislation which, after its passage, prevented courts from refusing bail to people who had breached domestic violence protection orders. This anomaly was rectified in December of last year, as Mr Connolly has outlined this morning. The first of Mr Humphries's Bail (Amendment) Bills proposes to refuse bail for people who are accused of an offence if at the time of that offence they were on bail in relation to another offence. This would apply in all cases unless exceptional circumstances apply.

Madam Speaker, Mr Humphries, in proposing his amendment Bill, was responding to a need he had perceived in the community at that time, and that need was for members of the community to feel protected from violent offenders in particular. In a perfect society people would not be accused of offences unless there was overwhelming evidence against them. Indeed, in a perfect society those who offended against their fellow citizens by violating their person or possessions would immediately admit guilt and the process of justice would be simple and straightforward. However, in these times this is not what occurs. People can be arrested or charged on what appears to be circumstantial evidence, the guilty may or may not admit to their crimes, and of course the court system operates on the basic principle that a person is innocent of the crimes they are accused of until they are proven guilty.

Therefore, if the only thing preventing a person from being allowed bail is a former accusation of the commission of a crime, that person must be given the benefit of the doubt. Until the court hears the evidence only an accusation exists, and I am not prepared to advocate curtailing a person's liberty on the basis of an accusation. Of course, many people in the community feel that if someone is accused of a crime they must be guilty to some degree, particularly in circumstances where police arrest offenders and retain them in custody for the courts to determine the question of bail. To consider that this is an indication of guilt is not a defensible position. There must be more than an accusation before a person is deemed to be guilty of a crime.

The amendment Bill before us today does not make the distinction between being accused of a similar crime or of a completely different crime. If, for example, a person was arrested and charged with, say, a break and enter offence and given bail, and then was arrested and charged with another unrelated offence on which they had to be brought before the court for determination of bail, the passage of this amendment Bill would compel the court to order that bail be refused. Not only would this have consequences for the many people who are charged with offences that are not proceeded with, that they are found not guilty of or that are delayed because of difficulty with coordinating witnesses and reports, but also there would be an enormous cost to the community in detaining people charged with more than one offence. Indeed, one could speculate as to what size the Belconnen Remand Centre would have to be to accommodate the numbers. There is a further provision in the amendment Bill that bail can be granted in such cases where there are exceptional circumstances, but who decides what are exceptional circumstances? Madam Speaker, to force the court's hand by stating that bail is refused because a person is charged with more than one offence which leads to detention in custody and appearance before the courts for determination of bail is to remove the fairness of the current court system. It removes the principle that a person is innocent until proven guilty.

The issues contained in the Bail (Amendment) Bill (No. 3), which is also before us today, were addressed by the Government's amendment Bill which was introduced and passed late last year. I felt then, and I feel now, that breaches of domestic violence protection orders are serious offences, and I supported the passage of the Government's amendment last year. Madam Speaker, I will not be supporting the amendments before us today, because of the fundamental principles involved. While we have a court system which determines guilt or innocence, I feel that we should also have a court system which can determine, with some degree of flexibility, whether the granting of bail is appropriate or not in any case before it.

MR MOORE (11.20): Madam Speaker, one of the things that we always have to take great care of in terms of legislation is to keep in mind the protection of the civil liberties of citizens. There is a major change, it seems to me, being attempted with this Bail (Amendment) Bill. A person charged with an offence is considered to be guilty if we accept what is suggested by the piece of legislation that has been put before us by Mr Humphries. Madam Speaker, it is always easy to argue things in black and white. I accept that in this situation the argument that I have just put is not in that category, is not completely black and white; but it leads to that kind of aspect with regard to people who are charged with an offence under the Domestic Violence Act.

One of the great difficulties for a court dealing with domestic violence, Madam Speaker, is to determine whether the person who is accused is guilty. There have been a number of notable cases recently where juries have found that the person accused is not guilty of an offence. I think, therefore, that the complicated issues that are being dealt with by the amendments here are issues that really need a great deal of community thought and consultation. I was pleased to hear the Minister indicate that the issues are currently before the Community Law Reform Committee, which so far has dealt very well with all the issues that it has presented to the Assembly. Madam Speaker, it seems to me to be appropriate that we wait and see what its report provides in regard to the Bill it is looking at. On the second issue, Madam Speaker, it having been considered by the Assembly previously, my position remains consistent. For those reasons, Madam Speaker, I will be opposing both of these Bills at this time.

MR HUMPHRIES (11.22), in reply: The two Bills before the Assembly have been on the table for some time. Obviously, having had them on the table for some time has not changed people's minds about them, but it is worth reflecting on what they are all about. They have in common amendments to section 5 of the Bail Act which we passed last year - a very important piece of legislation - and the fact that they deal with people who have come to the attention of law enforcement authorities and the courts of the Territory on more than one occasion. In both cases we are talking about people who have, in a sense, reoffended in some way or other. I use that term very loosely. In the first case of a person who is charged with an offence and is given bail, and who allegedly commits a further offence and then comes before a court again seeking bail, that person has had, as it were, two encounters with the law. Rather than say that that person should not be given bail, and that is not what is being suggested here, the amendment I have put forward in the Bail (Amendment) Bill is that there should be only exceptional circumstances that would establish a right to grant bail. That is not to say that that person does not have a right to bail; it is just that they get bail only in circumstances which are exceptional.

The second case relates to a person who is alleged to have breached a section 27 domestic violence order. That person obviously has appeared before a court once before, because they had to have the order made against them in the first place. Obviously, a court has some apprehension that there is a danger of some breach of the peace, some threat of violence. The court makes an order under section 27 of the Domestic Violence Act. That person goes away and then again comes to the attention of the police on the basis that they are alleged to have committed an offence against that order. Obviously, we are talking about people who often are in very emotional circumstances; but a person in that position is then before a court or before a senior police officer seeking to be bailed, having been charged with committing an offence against an order for which he has already appeared before a court. In those circumstances, again the person has twice come before the courts and the law.

I think, Madam Speaker, that this debate raises an important issue about the balance to be struck in our community between protection of civil liberties and the need for a stronger response to a serious problem in respect of crime in the community. Debates about crime, crime statistics and the general trends that are emerging with respect to crime have taken place before and will take place again, no doubt; but, Madam Speaker, it is undeniable that there is a problem with escalating levels of crime in certain categories.

Sexual offences are one such category. I acknowledge that undoubtedly there is greater reporting of sexual offences these days; but the underlying trend suggests to me that there is a problem overall with rising crime in these categories and we should not assume that people, particularly in categories relating to personal relationships or sexual offences, are going to be behaving rationally. That is why in Bail (Amendment) Bill (No. 3) there is an onus placed on the court not to grant bail in respect of a breach of a domestic violence order, because of the high potential in those circumstances for someone to reoffend. A person in a sense already has twice come to the attention of the law for acts that might be construed as a threat to another person - generally a female partner, a spouse, or a wife. That person has not been proved in either case to have committed certain offences; that is true. But there is the strong suggestion that, having twice come to the attention of the authorities, there is a real potential that there is some threat of physical harm.

I do not need to quote to the Assembly cases in the last few years of extremely serious crimes - referring here to everything from multiple murder down - that have occurred when courts have dealt, arguably, with excessive leniency with people who came before them for domestic violence problems. I am thinking particularly of that horrendous case in Richardson when I think four people died as a result of a person's extremely emotional state. I am anxious to respond to what I see as a concern in the community about the ease with which such people obtain their liberty. I am concerned that, in the balance between civil liberties and the protection of the community, we ought in the present circumstances to be erring on the side of protection of the community and a stronger response to crimes of this kind.

Madam Speaker, it was the intention of the Opposition, particularly in moving the Bail (Amendment) Bill, that we put this question of the grant of bail on a higher plane and show that the community wants to be tougher on people who are alleged to have reoffended against the laws of the Territory. It is not our intention to deny bail in those circumstances in any situation and I think, with respect, that it is difficult to accept the proposition of the Attorney-General that our position of asking judges to take into account previous offences is somehow tougher than the position in New South Wales. In New South Wales the position quite clearly is that a person is not entitled to bail for a second offence unless exceptional circumstances exist justifying the grant of that bail. It has not, to my knowledge, caused massive problems, massive infringements of civil liberties in New South Wales. This old argument about attuning ourselves to national standards comes up again. It seems to me appropriate that we should accept the better standard of New South Wales. It does seem to me to be a tougher and more appropriate standard.

I must say that I was gratified to hear the Attorney-General say that the Government is vigilant about the question of what might be perceived to be excessive leniency and, if necessary, will take appeals to the Supreme Court on the basis of excessive leniency by a lower court. I believe that it would be helpful in this debate, certainly in the handling of this issue in the community, if the Director of Public Prosecutions and the Government's policy were to reflect the desire of the community to see a fairly stringent position taken by courts in these circumstances.

It is possible to argue, Madam Speaker, that, although we should give members of the community who appear before the courts the benefit of the doubt about whether they have committed offences, there is also an argument that says that where people are potential offenders against, particularly, domestic violence orders - that is, where potential harm, sometimes very serious harm, might flow from a person being at liberty - there is a strong case for saying that the courts should sometimes err in favour of protection of victims. I believe that we have a very strong question here about whose rights are more important - those of a person accused of an offence, a violent offence, or those of a person who might be a potential further victim of violent offences. I believe, in other words, that the rights of victims ought to be focused on much more extensively than has been the case up until now. I would have hoped that the tabling of the report of the Community Law Reform Committee on victims' rights would have helped us to do that to a somewhat greater extent.

Both Mr Moore and Ms Szuty focused on the question of a person being innocent until proven guilty. I think, with great respect, that they have missed the point. Of course a person is innocent of a charge until proven guilty; but there are countless thousands of cases where people who are subsequently proven to be innocent are quite justifiably denied their liberty, not given bail, because the court perceives that a particularly serious offence needs to be dealt with by deprivation of liberty until the question of their innocence is actually resolved. I would argue that the right to a trial, the right to be heard in court, the right to argue a person's case, the right to all the protections that the law affords, are indeed rights; but I would also argue that bail in many respects can be viewed as a privilege. The community has every right to regulate the circumstances in which an accused person, a person who has been duly brought before the courts accused of an offence, might be granted the privilege of bail. That is the position of the law.

I would respectfully suggest that we confuse the issue of innocence at the ultimate stage with the question of whether the community is entitled to some protection in the meantime before that question is established in a court of law and whether a person is therefore entitled to bail.

Mr Moore: The court already takes that into account.

MR HUMPHRIES: The court does take that into account; that is quite true, Mr Moore. But the court, with respect, also needs to take into account community standards. By passing the Bail Act last year we, as the interpreters of community standards, set what those community standards would be. I submit that we are perfectly entitled to come back to that question of community standards and decide what we feel the appropriate community standards are. I have no doubt, having spoken to members of the community, particularly people like the woman who protested outside the Supreme Court and others who have been involved in, especially, domestic violence matters, that the community expects a higher standard than we have set so far for the granting of bail, particularly for those who breach section 27 orders.

Madam Speaker, there is a question here on Bail (Amendment) Bill (No. 3) which causes me some concern. The Minister, Mr Connolly, said that the idea of denying bail to a person who already has been before a court and has had a section 27 order made against them may be okay. The Government may feel that this is a good idea, but it has referred this issue to the Community Law Reform Committee. What the Minister said was, "If the Community Law Reform Committee okays this idea, we will do it". Madam Speaker, I have great respect for the Community Law Reform Committee. I am sure that we all do. I am sure that we all feel that it plays a valuable role in helping us determine certain issues and giving us a clearer focus on what are important issues within the community and how we should interpret an appropriate and efficient response to those issues; but I must say that it concerns me that in a sense we might consider the Community Law Reform Committee to be the arbiter of these issues rather than the elected representatives of the people of the ACT.

The Government appeared not to express a concrete view about this issue. It merely said, "We will accept the advice of the Community Law Reform Committee". I assume that it will be somewhat more discriminating than that. It will actually consider the advice and decide whether it is justifiable in all the circumstances - - -

Mr Connolly: We will consider the outcome of this broad consultative process before taking such a drastic step.

MR HUMPHRIES: That is pleasing to hear, Minister; but the fact remains that we, to some extent, are resolving to delegate those matters to the Community Law Reform Committee, or, rather, we are accepting that the Government has made the decision to delegate that matter and that the Assembly's determination of this question, which predated, as I recall, the

reference to the Community Law Reform Committee, should somehow await the report of the Community Law Reform Committee. I think Mr Moore, at one stage, raised concerns about this question in this place. I also am concerned that it is possible for some issues of importance before this Assembly, and hence of importance to the ACT community, to be dealt with by being referred to this committee and being taken off the plate of this Assembly; that the prerogatives that we exercise in this matter might be referred to some other body.

Mr Moore: No; we are just taking advice.

MR HUMPHRIES: We seem to be prepared to accept the advice of the Community Law Reform Committee. If the advice is the same as what is being proposed here, apparently we intend to pass this Bill in this form. The process whereby matters are referred to the Community Law Reform Committee is one over which this Assembly has no power at all. It is a matter purely - - -

Mr Moore: We do not look just at their conclusions; we look at the whole thinking that they present, and some of it we may reject.

MR HUMPHRIES: Yes. The Assembly has the capacity only to listen and to receive these reports when they come down, and I, for one, am a bit concerned about the capacity of the Assembly to continue to make decisions in this matter if the Government has pre-empted the process of consideration of those issues by referring it to the Community Law Reform Committee, particularly where an issue already has been raised in the Assembly and becomes, as it were, an issue in the Assembly. Perhaps other members are not concerned about that, but I certainly am.

Madam Speaker, it is clear, on a technical question, that these two Bills overlap. They both seek to effect different amendments to the same part of the Bail Act. It will not be a problem because neither Bill will be passed, but if we had reached the detail stage we would have had to amend one of these Bills. Madam Speaker, I hope that members have considered that question of the balance between protecting civil liberties and needing a stronger response to what I would say is a problem with rising crime in the community. I hope that the members of the Assembly will start to bear in mind that we cannot expect to influence that rising crime unless we use the powers available to us, and they include, very importantly, legislative powers. We obviously will decide on this occasion to pass over that opportunity once again, but I hope that when the next occasion comes around our hand is not forced because circumstances have marched on and we find ourselves compelled to act.

Question resolved in the negative.

BAIL (AMENDMENT) BILL (NO. 3) 1992

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

That this Bill be agreed to in principle.

MR HUMPHRIES (11.37), in reply: Madam Speaker, this Bill has been on the table also for quite some time. I can reciprocate Mr Moore's position today by indicating that my party will not be supporting this Bill. This arose out of the quite infamous - - -

Mr Connolly: We are voting on the second bail Bill.

MADAM SPEAKER: Order! This is the second of the Bail (Amendment) Bills, which was dealt with in the cognate debate.

MR HUMPHRIES: I am sorry, Madam Speaker.

MADAM SPEAKER: It is okay. It was a fair mistake. It is not a problem.

Question resolved in the negative.

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

Debate resumed from 31 March 1993, on motion by **Mr Moore**:

That this Bill be agreed to in principle.

MR HUMPHRIES (11.38): Madam Speaker, I was ahead of myself. As I indicated - - -

Mr Moore: If you support this, I will bring the other one back on. Come on; you support this and I will support the bail Bill.

MR HUMPHRIES: It is a bit late to do a deal, Michael. Madam Speaker, the Opposition will be opposing the effective repeal of substantial sections of the Crimes (Offences Against the Government) Act 1989. As members will recall, this amendment Bill of Mr Moore's arose out of the quite notorious or infamous raid on the *Canberra Times* in about April last year, I think, caused by the Government's paranoia about the question of leaks from the Government. We all know that those leaks have continued unabated since the time of that raid and that the exercise was quite futile. I am not suggesting that there needs to be no response taken to those sorts of issues, but I do suggest that the response of Mr Moore to repeal sections 10, 11 and 12 of the Crimes (Offences Against the Government) Act might be an overreaction to that.

Mr Moore: You went for the hot air, but when it comes to the crunch you will not deliver.

MR HUMPHRIES: Madam Speaker, I have been quite consistent. I have maintained that it is very important for governments to protect people who blow whistles, whistle-blowers. I might indicate that my party has indicated strong support for whistle-blowers legislation. Indeed, as I understand it, it is presently in the process of preparing whistle-blowers legislation to present before this Assembly. There is no question but that we will protect people who legitimately raise certain issues in the appropriate fashion and the appropriate way and will organise for those issues to come into the public light.

It is one thing to give people who raise issues in that way proper protection. It is quite another to repeal offences that deal with a proper responsibility of public servants to their offices and to the duties that they hold as public servants. Section 10 of this Act says:

> A person who ... publishes or communicates ... any fact or document which comes to his or her knowledge ... by virtue of him or her being an officer of the Territory and which it is his or her duty not to disclose, is guilty of an offence punishable, on conviction, by imprisonment for a period not exceeding 2 years.

There might be some argument about that being too harsh, about whether it is too draconian. There might be some issue about whether the circumstances under which knowledge can be imparted reasonably ought to be modified, but I certainly think it is quite wrong to suggest that officers of the ACT Government ought to have no responsibility to maintain the discretion which, I am sure we would all agree, the vast majority of officers of the ACT Government have exercised for some time. Section 11 is even more significant. It says:

> A person who steals, fraudulently misappropriates or fraudulently converts to his or her own use any property belonging to the Territory ... is guilty of an offence ...

Mr Moore: They are guilty of an offence anyway, under the Crimes Act.

MR HUMPHRIES: Mr Moore points out that there are provisions in the Crimes Act which deal with that particular offence, and that is quite true; but, Madam Speaker, that does not ignore the need for a document such as this, the Crimes (Offences Against the Government) Act, to appropriately contain a concise set of the duties which public servants face and which we would hope they would all exercise in the course of their duty. Mr Moore might say that we can cover this in other ways, but it seems to me that it is appropriate to cover it here in a statute entitled Crimes (Offences Against the Government) Act.

Madam Speaker, as I have indicated, this is a response to an important issue, but I do not think it is the right response. I think that we can deal with issues of this kind by examining the question of whistle-blowers in the community, and my party is doing just that. It is quite another thing to suggest that we should abandon all the standards which we have built up over a period, also by tradition, apart from anything else, that deal with the responsibilities of public servants. That is what Mr Moore would propose that we would do. It is not what our party would support.

MS SZUTY (11.43): Madam Speaker, I do not support this amendment Bill by my colleague Mr Moore either. It might come as some surprise to members in this Assembly because I usually agree with Mr Moore on other issues. I do applaud the concept of open government, which is what I believe Mr Moore wants to achieve through his amendment Bill. However, while I support the concept, I do not support this Bill as the means of achieving it. I have taken note of the arguments that Mr Connolly and Mr Humphries have presented in terms of their opposing this Bill. Mr Connolly said in his remarks that this type of law is found in governments around Australia. No State government would have put into effect legislation such as Mr Moore is proposing. He also mentioned that the Freedom of Information Act is an appropriate check and balance in encouraging open government, and I would agree with that. He also said that the fact that we have secrecy provisions does not necessarily mean that we have closed government, and I agree with that view. Many Acts of the ACT Legislative Assembly have had secrecy provisions included in them, including the Community Advocate Act, the Health Services Act, the Legal Aid Act and the Occupational Health and Safety Act.

Mr Connolly: And Mr Moore's epidemiology Act.

MS SZUTY: Indeed, Mr Connolly, the Epidemiological Studies (Confidentiality) Act introduced by Mr Moore some time ago. I also take on board Mr Humphries's remarks with respect to the implications of this legislation. In conclusion, Madam Speaker, I will just indicate to the Assembly once again that I will not be supporting it.

MR MOORE (11.45), in reply: Since there are no further speakers, Madam Speaker, I will reply to some of the issues raised. Members seem to have misunderstood, although Mr Humphries dealt with it to some extent, that there are protections already in existence for all the things that they are concerned about. The best comparison that we can draw is a bank. The issues that are raised here about secrecy, privacy and damage that can be done apply at least equally to a bank. If we are prepared to have on our table legislation that specifically looks after ourselves but does not look after the broader community, then I think there are real questions about our attitudes. There are real questions over where we are going. It is okay, we will look after ourselves; but it is tough for you, Jack. That is what this issue is really about. If we really need legislation with these sorts of special requirements, then, really, we need to look to ourselves.

Madam Speaker, the Crimes Act covers each and every one of those issues. Mr Humphries drew attention, for example, to where a public servant steals from the Government. Stealing is stealing. It is covered under the Crimes Act. A court can deal with stealing. A court can deal with fraud. A court can deal with information, Madam Speaker. There are ways of doing it. It is not necessary to have a special Act to deal with public servants on this issue.

Mr Humphries: It is not a problem either, is it?

MR MOORE: Mr Humphries indicates that it is not a problem. If the Act were not a problem at all, then we would not have had the sorts of issues raised that he made a great deal of fuss about with reference to information in the *Canberra Times*. The reality was that there was a leaking of information. That issue was dealt with in what you described at the time as an entirely inappropriate way.

For the moment let us put this law aside. Let us assume that this law was not there. If, in fact, the other laws had been broken they ought to have been dealt with in an appropriate way. What I am suggesting is that the very issues that he raised at that time over the leaking of information to the *Canberra Times* ought to be dealt with in the same way as if information had been leaked by somebody from perhaps the National Australia Bank, the Commonwealth Bank or another bank, or any business, such as Mr Westende's business. What happens when, in a business like that, one of the employees breaches the privacy of the business? That can have a major impact. It can have an absolutely major impact on the business. If our laws are inadequate in dealing with that, then it is quite appropriate for us to change or modify those laws. A very special set of laws was drawn up just for the Government to look after its own. It was drawn up by bureaucrats and agreed to by Ministers. This particular Act was delivered to us as an ordinance just prior to self-government. That re-emphasises the fact that it is bureaucrats looking after bureaucrats, and looking after the interests of bureaucrats - in this case protecting privacy. We ought to look very carefully and consider whether or not we actually want this piece of legislation in place.

Madam Speaker, I would like to deal with some of the specific comments made by Mr Connolly on 31 March. Mr Connolly used the good old argument that every State government in Australia, whether it be Labor, Liberal or National, has ensured that they have this type of legislation. Sure. So what? If we take that attitude to every piece of legislation we will never do anything other than what other people do. If we are never going to do anything other than what other people do, do we really need self-government at all? I am sure that Mr Stevenson would suddenly prick up his ears on hearing this and would be asking that very same question. It seems to me that this argument is brought in only when it happens to suit the Government. We always do the comparison if it happens to suit us, but if it does not suit us we do not bring in a comparison at all. Therefore I think that that argument carries very little weight.

Mr Connolly took great delight in dealing with the Epidemiological Studies (Confidentiality) Act which I introduced and which has secrecy provisions. The secrecy provisions there deal with people who are acting outside the law in particular. It was designed specifically to allow us, in public health terms, to get information. There are other Acts - they were referred to by Ms Szuty - that specifically have provisions in them for reasons like that, and I do not seek to change those laws. It is this overriding law that applies specifically to government when, in fact, if there is a need, it ought to apply also to private enterprise as well.

Madam Speaker, Mr Connolly went on to justify his argument against this Bill by saying, "Look, we have really great freedom of information laws in the ACT and they work so well that anybody can find out whatever they want to". I remember recently Mrs Carnell raising in the public arena that she had attempted to get some information and the costs were quite prohibitive, even though it is quite clear, or it is clear to me, that members seek information in the public interest. It would be very unusual for a member to pursue freedom of information for their own specific interest. No doubt there would be occasions when that would occur. That would have to do with information, for example, about your own file. Clearly, that would be a personal issue and, as far as I am concerned, all members would identify it as such and would be quite happy to

pay the appropriate amount of money. The reality is that for the ordinary citizen there is a cost associated with freedom of information and it is a process that most members of the public find threatening. They find it difficult to deal with. There are public servants who realise that information that is available to them may well need public scrutiny in the public interest.

It will be interesting to see the legislation that the Liberals introduce as far as whistle-blowing goes. If we are to use Mr Connolly's argument from before, yes, there is whistle-blowing legislation in a number of places in Australia and therefore, of course, the Government will support it, using that exact same logic - that because it is in other places we have to support it; if they are doing it, it must be right. Mr Connolly said this in his speech:

> These types of provisions have not been altered for many years - I would acknowledge that - and our provisions are modelled on the Commonwealth provisions.

Then he talked about the Gibbs committee and so forth. Because we have had them for many years does not mean to say that they are very good laws. Because we have had them for many years does not mean that they serve the public interest. Because we have had them for many years does not mean that they are right.

I would like to put this into perspective, Madam Speaker, and to say that where we are talking about crimes committed against the Government it is inappropriate that those crimes should be able to be committed. It seems to me that we are talking about things such as stealing and we are talking about things such as information. I think a bank is a good comparison. A comparison could be made with a whole series of other places in private enterprise. A firm like BHP would be another good example. It seems to me that where laws apply to the Government they ought to apply also to private enterprise. That is what is fundamentally wrong with the provisions in this Act. In each of those circumstances and in each of the parts of the Act that we look at, Madam Speaker, you will see that we are dealing with issues that are of concern not only to members of the public and the public service but also to businesses such as those that I have mentioned before.

Madam Speaker, with those few words, I think it is important to urge members to realise that they have this last opportunity to see the light; to realise that this is a very sensible Bill and a sensible and concrete response to an issue, unlike the Liberals' hot air. It is all right for the Liberals, Mr Humphries in particular, to come out and say, "Oh, horror, scream; look what they have done to the *Canberra Times*". He wants to be onside with Chris Uhlmann. It did not even work, because Chris Uhlmann left the *Canberra Times* anyway, as it turned out. Nevertheless, he wants to be onside with the *Canberra Times*; so he says, "Oh horror, oh scream; we have a terrible position, a horrible position here, and we have to do something about it". The something we do about it is to keep saying, "Oh shock, oh horror", and we get an editorial from the *Canberra Times* which, hopefully, mentions Mr Humphries's name. So he gets his name up in a bit of light if he is lucky. Then he manages to make a noise and to see what he can do about this issue.

Mr Humphries: Michael is so shy of publicity!

MR MOORE: I hear an interjection, "Mr Moore is shy of publicity". No, Madam Speaker; the difference is that I seek publicity with a strategy in mind to make changes, and then I come into this Assembly to actually do something instead of just making noise. It is quite clear, Madam Speaker, that over the last 18 months or so Ms Szuty and I have come in on many occasions to actually do something. In this particular situation, Madam Speaker, Ms Szuty is wrong. Instead of looking at this issue very carefully and getting to understand the concepts, she unfortunately has been swayed by the likes of Mr Connolly and Mr Humphries. However, I think it is important.

Mr De Domenico: She may be wrong, but she is not stupid.

MR MOORE: I have an interjection from Mr De Domenico, "She has bombed out, but she is not stupid", and that is correct. I would say to you, Madam Speaker, that what it does illustrate is that, whilst Ms Szuty and I closely liaise on many things, we do not have the barrier of party solidarity to ensure that we always vote in the same way. I am very comfortable with the fact that Ms Szuty is voting differently from me on this issue. If, in fact, members of parties voted according to the way they believed, instead of voting according to what their numbers dictate in the party room, not only would the best interests of the community be served before the best interests of the party - I know that some of you see that as the same thing - but also we would have a far more effective, more open and more honest Assembly, and that would be a mighty good start to a far more honest and open government system.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 2	*NOES, 15*
Mr Moore	Mr Berry
Mr Stevenson	Mrs Carnell
	Mr Connolly
	Mr Cornwell
	Mr De Domenico
	Ms Ellis
	Ms Follett
	Mrs Grassby
	Mr Humphries
	Mr Kaine
	Mr Lamont
	Ms McRae
	Ms Szuty
	Mr Westende
	Mr Wood

Question so resolved in the negative.

Sitting suspended from 12.02 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Mental Health Services

MRS CARNELL: My question is addressed to the Minister for Health. I refer the Minister to a letter written by Dr Bernie Hughson, the former Executive Director of Mental Health Services, to Ms Gillian Biscoe on 10 March 1993. It states:

> The ACT Government provides one of the lowest per capita budgets for Mental Health Services of any area in the country. There are fewer beds available than elsewhere, and, as a result, we have more admissions per bed, shorter lengths of stay and fewer staff per admission than comparable cities ... There are no elective psychiatric admissions to Woden Valley Hospital and patients are not infrequently discharged earlier than best practice would require because more urgent cases must be admitted.

Taking into account that this is Mental Health Week, what has the Minister done to address the chronic bed shortage; and does he agree with Dr Hughson that more beds are required in the psychiatric ward?

MR BERRY: No, Dr Hughson did not say that. He said that we have a lower number of beds. Do not tell the big one about what he said.

Mrs Carnell: That is what he said. I quoted him exactly.

MR BERRY: No. He said that we have the lowest number of beds. He did not say that we had to have - - -

Mr Humphries: Yes, we need more.

MR BERRY: No, he did not say that we need more.

Mrs Carnell: I can actually table the document where he did.

MR BERRY: Go on. Undoubtedly, since Labor has come to office we have done more in relation to the provision of mental health services than was previously the case. I will just go through some of the services that we have provided. Mental Health Services has provided a daily crisis service from the - - -

Mr Humphries: We established that.

MR BERRY: Wait a minute. You interrupt again. You want to consider just part of the picture, not the whole picture, because the whole picture is good news.

Mrs Carnell: I asked about beds.

MR BERRY: That is right. Beds are a small part of the entire - - -

Mrs Carnell: That is the question.

MR BERRY: You are going to get a big picture answer, whether you like it or not.

Mrs Carnell: You mean that you are not going to answer the question.

MR BERRY: I have always answered the question, and that takes me to another point where I - - -

Mr Cornwell: You have not answered the first one yet.

MR BERRY: If you keep interjecting, I will keep answering your queries. I noticed in the paper today that Mr Humphries said:

> I don't think Mr Berry has answered a question for two years.

Mr Kaine: He is right. When are you going to start?

MR BERRY: You keep interjecting.

Mr Humphries: I raise a point of order, Madam Speaker. I am glad that Mr Berry has quoted us back; but in fact the question was about Mental Health Week, not about Mr Berry's appalling performance in answering questions at question time.

MADAM SPEAKER: Perhaps if members heeded the requirements of standing order 39 Mr Berry may be able to proceed. Mr Berry, please answer the question.

MR BERRY: What is very important is that we paint the complete picture so that there is nobody misleading anybody in relation to the issue of mental health services. In 1989 when the first Labor Government was in power we realised that mental health services were in need of reform. We established the ACT Mental Health Advisory Committee - which was later undone by Mr Humphries, as people will recall - which initiated the *Balancing Rights* report in November 1990. That was announced later on by Mr Humphries, but it was initiated by Labor. We are pleased that he went on with that, but it was - - -

Mr Humphries: Do we get the credit for the birthing centre too, because we initiated that?

MR BERRY: We do not claim credit for everything, but we do claim credit for most things that have been good since self-government. Unfortunately, as I said, that advisory committee was disbanded by the Alliance Government, Mr Humphries in particular.

Mr Burdekin came to Canberra in 1992 and, like Labor in 1989, he saw that mental health services were in need of reform. What he saw and heard will ultimately, I guess, turn up in the report that he is about to release. But in the time between his visit to Canberra and the release of his report - which is due to happen at about 3 o'clock, I think - we put in place in 1992-93 an intensive care team for the mentally ill and the outreach service for adolescents. This is all part of the big picture, Mrs Carnell - not just beds.

Mrs Carnell: But it is not what I asked about.

MR BERRY: You are going to get the complete picture. I mention also the Mental Health Tribunal and the case management scheme, and in this year's budget we have provided funding for a generic crisis service. They are all part of the services that we provide to the mentally ill. We are not just going to be led down the path of targeting little bits and pieces which by themselves might be presented as something that is wrong with the services that we provide. You must look at the big picture.

Your approach here is the same as your approach to the hospital generally. You complain about the number of beds without looking at the number of people that use them or the time that they stay in them. That narrow-mindedness and narrow focus which we have become used to from your statements is an attempt to mislead the community that something is wrong. It is about - - -

Mrs Carnell: I just quoted your executive director.

MR BERRY: He is not my executive director. For the people of the ACT, a lot has happened since Burdekin came to see how we deal with mental illness, and I guess - - -

Mr Humphries: I raise a point of order, Madam Speaker. Mr Berry has not made the slightest attempt to approach the question that has been asked by Mrs Carnell. She asked clearly and simply about bed numbers in psychiatric care. He has not even begun to mention that. Would you please bring him to the point?

MADAM SPEAKER: Mr Humphries, that is a question of your judgment. Mr Berry has the floor and is answering the question. Mr Berry may proceed to answer the question.

MR BERRY: If you look at beds by themselves and pretend that the rest of these services are not there, then you might be able to claim that something is wrong; but you cannot claim that something is wrong when you look at the composite, and you are not doing that. Of course, the daily crisis service has been provided from our four principal health centres of Belconnen, Phillip, Tuggeranong and the city - - -

Mr Humphries: Not by you. That was our initiative.

MR BERRY: It has been provided. An after-hours crisis service has been operated from the Woden Valley Hospital since 1991 by us. Both services have been combined to provide a community based service which will assist the public by providing a well-trained, responsive team which can be accessed from a single contact number. The crisis team will work closely with community mental health teams and the hospital in order to ensure continuity of service for clients in consultation with consumers and carers. Concerns had been expressed at the difficulty in having a number of crisis contact numbers. The changes will thus improve services and reduce duplication.

What we have is a broad range of services which are provided in the community. They include the provision of beds within the hospital system. If those services were not provided, then some might argue that you would need to provide more beds; but the aim, of course, is to keep people out of hospitals - - -

Mr Humphries: You sometimes have to put them there.

MR BERRY: Indeed. The aim, of course, is to keep people out of hospitals when that is not relevant and - - -

Mrs Carnell: You do that because you do not have any beds.

MR BERRY: Here she goes again. She says, "You do not have any beds". But we have that full range of services outside of the hospital system which works to keep people out of the hospital system. Of course, what we will continue to do is to ensure that, as much as possible, these services are provided to the mentally ill in order that we do not have a need for more and more beds. We do not want to go back to the 1950s, when people were more or less incarcerated in old-fashioned institutions.

If that is what you want, if you want thousands of beds and people incarcerated in old-fashioned institutions, you are looking at the wrong fellow, because you are not going to get it from me. We are about providing a comprehensive service which includes services within the hospital system, including beds. We are lucky that we do not have any of those old-fashioned services that have been provided in the States and we do - - -

Mr Humphries: Like beds.

MR BERRY: Mr Humphries intervenes with, "Like beds". The old-fashioned services which I was talking about, of course, are those old-fashioned institutions which he knows full well about. They are gone and they are not going to happen here. It is not an issue about providing all of your mental health services by way of beds. It is about a comprehensive service, and that is what we provide.

Mr Cornwell: I take a point of order, Madam Speaker. I refer you to standing order 118(a), which states that answers to questions without notice "shall be concise and confined to the subject matter of the question". This answer has been going on for 11 minutes now.

MADAM SPEAKER: It is purely a question of judgment. Mr Berry is answering the question. Mr Berry may proceed to answer the question. In my judgment, "concise" may well take 20 minutes on some points, particularly if the Minister is continually interrupted. Please proceed, Mr Berry.

Mr Kaine: On a point of order, Madam Speaker, I would like to draw your attention to the final sentence of standing order 118, which says that the Speaker may direct a member to terminate an answer if, in your opinion, he has had a sufficient opportunity to answer the question. You cannot tell me that the Minister, in 12 minutes, has not had an opportunity to answer the question. I would ask you to exercise your power under that standing order.

MADAM SPEAKER: Mr Kaine, I am exercising my judgment. Mr Berry, please proceed.

MR BERRY: Thank you, Madam Speaker. As I say, if we did not have those comprehensive services which are provided outside of the hospital system, then it might well be fair criticism that there are not enough beds; but we do provide those extra services. It is always easy to criticise health systems, not only in the ACT but right across the world, for the number of beds. I do not accept the criticism. We do the utmost in our hospital system within the resources that we have, and we live in the real world. That is why we have the number of beds that we have now.

Tuberculosis

MS ELLIS: My question is directed to the Deputy Chief Minister in his capacity as Minister for Health. Could the Minister inform the Assembly as to recent trends in the occurrence of tuberculosis?

MR BERRY: The trends, of course, have shown that there is a move in the incidence of tuberculosis in the community. There has been some discussion about the emergence of resistant strains. I see that Michael Moore might be in need of some attention. Have you checked what you just coughed up? The trend is that there is an increase in tuberculosis. I was pleased this morning that Mrs Carnell withdrew her Bill in relation to tuberculosis because, Madam Speaker, it is clear that her position was not well thought through. It was done on the back of an envelope. From my expert advice it was clear to me that it was most inappropriate for her to take that course.

We know about the increased emergence of TB in the community. There are a whole host of sources which have been widely publicised - for example, immigration. Certain countries have more TB than others, and of course there is a lot of immigration. People from Australia also go overseas and bring it back with them. It is something that we have to be very careful about. What I again caution against is creating panic on this issue. It is not an issue to panic about. We have the sorts of services in the ACT that can deal with it, and I think a cheap headline or two does not help us very much. We do not need to create panic. The community has to understand that we are aware of the issue and we are providing a service.

Tourism Commission - Advisory Board

MR DE DOMENICO: Madam Speaker, my question is addressed to the Chief Minister. I refer the Chief Minister to her response to questions about Mr Charles Wright, the chairman of the ACT tourism advisory board, and his claimed "good business record". Does the Chief Minister consider that the failure to pay for supplies of a business is a good business practice? Specifically, is the Minister aware that in 1989 Mr Wright's company, CPP Communications Ltd, endorsed a cheque for $2,360.40 which subsequently bounced and which to this date has still to be honoured? Does she condone such a practice? If not, when will Ms Follett sack Mr Wright from the ACT tourism advisory board, in view of his disgraceful business conduct?

MS FOLLETT: Madam Speaker, the disgraceful conduct is entirely on the other side of the house, in my view. What we have yet again is a personal attack on a member of this community who is offering his services to the rest of the community in this capacity as chairman of the tourism advisory board. Madam Speaker, I think it is utterly disgraceful that members opposite continually seek to exploit cheap political points not just about Mr Wright but about a whole range of people whom they have sought to denigrate in this fashion. I do not need to go much further than Mr Stan Aliprandi, if their memories can go back that far.

Madam Speaker, the purpose of Mr De Domenico's question is not to elicit information that might be useful to this Assembly. It is merely to carry on a vendetta against a particular member of this community. It is a smear campaign that I think is a disgrace to this Assembly. Madam Speaker, I stand by my claim that Mr Charles Wright is a businessman in good standing in this community and that he is doing an excellent job as the chair of the tourism advisory board. Members have only to look at the recent results in tourism in this Territory to know that that is the case. I know that it does not suit Mr De Domenico at all, but they are the facts, Madam Speaker. As well as that, if you look at the recent success of ACT institutions at the national tourism awards, that fact is further borne out. Tourism in this Territory is performing extremely well and Mr Wright's contribution is no small part of that.

Madam Speaker, members opposite can smear and denigrate people all they like. It will not change my opinion. It only reinforces my opinion of them. I can imagine, Madam Speaker, how many people there are out in the community who are worried, frightened, in fear for their own livelihoods, because of the actions that continue to be taken by the members of this Opposition. I think they are a disgrace.

MR DE DOMENICO: Madam Speaker, I seek leave to table two documents - first, the bounced cheque and, secondly, a document confirming that the cheque bounced.

Leave not granted.

Postal and Customs Services

MR STEVENSON: My question is addressed to the Chief Minister in her capacity as Minister handling intergovernment relations. It concerns mail in Canberra and involves Customs and Australia Post. There are two areas - one with dead letters, the other with parcels arriving from overseas. I believe once parcels from overseas would have been delivered directly to Canberra and cleared through a local Customs section. Concerns that have been conveyed to me by a number of individuals and businesses in Canberra - - -

Mr Berry: They are wasting their time talking to you; they should go and talk to the post office.

MR STEVENSON: If they knew that you were in here, Wayne, they might think it would be a good idea. First of all, perhaps the Chief Minister could ask about the potential for the re-establishment of a Customs section at the Fyshwick Mail Exchange. At the moment the mail goes to the Clyde Mail Exchange and there are a number of demurrage costs and delays because of that. Sometimes business people in Canberra drive up to Sydney and find it very difficult to get their parcels on time. The second point has to do with dead letters - that is, a letter or a parcel that does not - - -

Mr Wood: Is this a speech or a question?

MR STEVENSON: It is taking a long time, I know. I would have finished a long time ago if there had been a little bit of shush in the place. If there is not an apparent address to forward the parcel or envelope on to or back to, they have to send it to Sydney, which is the only place where it can be opened. Could you also look at the possibility of establishing that principle in the ACT to short-circuit the time involved in forwarding parcels to Sydney?

MS FOLLETT: Madam Speaker, my portfolio responsibilities do not extend to either the Customs Service or Australia Post, so strictly speaking I am quite sure that you would rule the question completely out of order. However, I think that, in view of what I surmise to be a business interest in this matter that Mr Stevenson is putting forward, I will make some inquiries and, if I can elicit any information, I will certainly pass it on. But I do want to make the point that the question is out of order and that I should be under no obligation to answer it.

Woden Valley Hospital - Waiting List

MR KAINE: Madam Speaker, I direct a question, through you, to the Minister for Health. I know that he likes to paint the big picture; but this time I would like him to focus on the little picture, if he would not mind, and specifically answer this question. Minister, last year you closed the Woden Valley Hospital for four weeks and the waiting list expanded by 700. This year you are closing the Woden Valley Hospital for six weeks. Given that you are expecting the same level of activity this year as last, one would expect the waiting list to increase by about 1,000 or 1,050 after the hospital reopens. Would you agree with that figure? If not, do you have some better figure by which you expect the waiting list to blow out?

MR BERRY: I do not think there is anything new in the news that there will be pressure on waiting lists in the ACT. There has been since self-government.

Mrs Carnell: Since you took over.

MR BERRY: No. The list has continually grown since self-government. It doubled - - -

Mrs Carnell: It got worse this year.

MR BERRY: Madam Speaker, we can do without the interjections. I do not mind answering Mrs Carnell's questions. If you want, I can stand here for a few minutes and answer the interjections. From my recollection, in about September 1989 - and I do not have the figures in front of me - there were about 900 to 1,000 waiting for surgery, according to the form that we used in those days to measure the numbers. Later on, of course, the Government changed, and under Mr Humphries the number doubled - - -

Mr Humphries: I do not think it did.

MR BERRY: It did. It went up to about 1,800 by the time the Alliance Government ran out of puff and - - -

Mr Humphries: So what is it now?

MR BERRY: I will tell you. It is still increasing. No government has been able to come up with the formula that guarantees that waiting lists will decline. It has been shown in the past that if you throw money at the health system that does not necessarily mean that waiting lists will decline, as you would appreciate. The other question is: Who is responsible for the waiting lists? Essentially, the number of people on the waiting list is, of course, decided upon by the referring specialists who decide whether people need surgery for one reason or another.

We also have to manage the provision of services within the hospital in a more efficient way - and I think Mr Kaine would agree with that - because there were inefficiencies within the hospital system. Mrs Carnell continually bleats that we are closing the hospital for six weeks. That is the big fib. What happens is that there - - -

Mr Humphries: "Closing beds", she said.

MR BERRY: She said "hospital". She said, "You are closing the hospital for six weeks". It is not closing for six weeks. The hospital will be well and truly open. All emergency services will be provided. In relation to elective surgery, there is a wind-down in the provision of - - -

Mr Humphries: I think you fib, Wayne, according to that.

MADAM SPEAKER: Order!

MR BERRY: The hospital is not going to close.

Mr Humphries: That is what your heading says.

MR BERRY: The hospital is not going to close, I am telling you now.

Mr Humphries: Who wrote the memo, then?

MR BERRY: I am telling you. Did I sign it?

Mrs Carnell: No.

MR BERRY: No. Listen to me. I am telling you that the hospital is not going to close. Take that for granted.

Mr Humphries: It is going to wind down, though, is it not?

MR BERRY: As when you were Health Minister, there will be a wind-down in the provision of services around holiday periods, and that will be - - -

Mrs Carnell: For about twice as long.

MR BERRY: We are doing twice as well. We are just doing so much better these days. We are treating many thousands more people.

Mr De Domenico: How many more thousands will we be treating this year?

MR BERRY: It was 2,000 extra last year, a 5 per cent increase.

Mr Humphries: That is many thousands?

MR BERRY: You asked the question. That is a massive increase when you - - -

MADAM SPEAKER: Order! This is not an open debating session. Mr Berry is attempting to answer this question. The provisions of standing order 39 are still in action. I want a bit of order.

MR BERRY: The practice of bed closures around Christmas periods will continue. It has always been so. It is a sensible management practice, and it means that we are able to give a whole range of people their leave when it is more convenient for them. There will always be one or two who do not want to go on leave and end up unhappy about the process of wind-downs at Christmas and other public holiday periods; but, essentially, overall it is a bed management practice within hospitals which is widely used. I do not control the waiting lists.

Mrs Carnell: You do if you close the beds.

MR BERRY: Mrs Carnell bleats again, "You do if you close the beds". Wrong, wrong, wrong again, as usual. I said that I do not control waiting lists. It depends on the number of people who are put on the waiting list for surgery by the visiting medical officers. There is no guarantee that by opening an extra couple of hundred beds those waiting lists would decline.

One of the things that these people refuse to acknowledge, or have never tried to acknowledge, is that there is growing confidence in our hospital system. More people are prepared to use it, and that is why the pressure grew last year. We treated about 5 per cent more people. There is no indication that the community is any sicker - - -

Mr Humphries: But the population is growing, is it not?

MR BERRY: Population growth has been one-and-a-half per cent, 2 per cent.

Ms Follett: Two per cent.

MR BERRY: Two per cent against a 5 per cent growth in people in the hospital, so that is an inexplicable growth. I expect that there will still be pressure on the waiting lists. I do not think we have a magic formula that will wipe them out overnight. I have no doubt that there will still be pressure on waiting lists and - - -

Mr Humphries: How much will they grow by?

MR BERRY: You will have to go and ask the visiting medical officers that, Mr Humphries, because they are the ones that put people on the lists. As far as I am concerned, there will be pressure on waiting lists; but there will also be bed management strategies which will increase the efficiency of our hospital system. We will keep the pressure on to bring our average length of stay down. That means that we can make more efficient use of beds and make more efficient use of the traditional close-down periods and, of course, as I said, our average length of stay will improve. This is about an overall improvement of the hospital system which will mean that we will put more people through the public hospital system than we have in the past, and with fewer beds.

MR KAINE: I ask a supplementary question, Madam Speaker. I did exhort the Minister to keep to the small picture, but he slipped a cog and went back into big picture mode and he did not answer my question. But I did detect in what he said that the waiting list will continue to increase.

Mr Berry: I said that there would be more pressure on it.

MR KAINE: May I be quite specific about that. Does the Minister agree that the waiting list will be bigger after the Christmas wind-down of activity in the hospital than it is now?

MR BERRY: There is an absence of understanding of what occurs.

Ms Follett: They are requesting an opinion, anyway.

MR BERRY: This is an opinion, but I will just explain to you a little bit about the waiting lists. We explained to those - - -

Mr Kaine: Could you just say yes or no, Minister.

MR BERRY: No. You have to get the full picture. We explain to visiting medical officers who use our hospital system that we are making more efficient use of our beds and we are using a strategic plan for bed management.

Mrs Carnell: So you are closing paediatric surgery for six weeks.

MR BERRY: Electives. Elective surgery is wound down at these traditional times, as it was under Mr Humphries. Doctors, of course, do not book patients in for elective surgery when they know that the hospital is being wound down.

Mrs Carnell: It is closed.

MR BERRY: No, the hospital is not closed. The hospital is well and truly open. If at that time you happen to have anything wrong with you that requires hospitalisation, Mrs Carnell, front to accident and emergency. Whilst they might shrink back in horror, they will still give you proper treatment. You will get treated like any other person in the community, despite all your criticism of the public hospital system. Mr Kaine said that I said that the waiting list would grow. No, I did not say that. I said that there would be more pressure on it.

ACTEW Services

MR LAMONT: My question is directed to the Minister for Urban Services. Is the Minister aware of the results of the recent survey of the provision of electricity and water services in Australia, and could the Minister provide details on how ACTEW compares with other Australian service providers as shown by those survey results?

Mr De Domenico: Is this the same thing that was in the paper this morning?

Mr Moore: We read it in the paper this morning.

Mr Kaine: We read that in the paper.

Mr Stevenson: We all read it. We have already read it. You do not need to answer this, Terry.

MR LAMONT: I asked the question because I know that they can read, but they very seldom understand.

MR CONNOLLY: Madam Speaker, I am pleased to hear the interjections from opposite. They indicate that the Opposition have in fact read the *Canberra Times* this morning. Perhaps that means that we will not have any more ill informed, trite attacks on ACTEW, as we did last night from the Leader of the Opposition bleating away that the Labor Party does not understand how to handle public enterprises. An independent survey conducted for the Australian Electricity Supply Association by an organisation by the name of London Economics - an international body which is taking part in a major international benchmarking study of electricity supply and distribution authorities - indicates that on a number of leading indicators ACTEW is indeed leading the way in Australia.

ACTEW, on its electricity distribution side, and I stress "distribution" - it is true that ACTEW is not an electricity generator, but this was a survey of distribution authorities - delivered to the people of Canberra electricity at the cheapest price for 1991-92, and our prices have remained constant for 1992-93, although other States have increased theirs. ACT residents paid 7.6c per kilowatt hour; Sydney residents, 9.3c; SEQEB customers, 9.5c; South Australian residents, 10.7c; Tasmanians, despite the presence of massive supplies of cheap hydro power, 8.8c; Melbourne residents, 10.7c; and Western Australians, 14.1c. ACT residents are paying considerably less.

In terms of system outages - and this is a credit to those linespersons who are out in all sorts of emergency situations, and no-one could say that Canberra has a kinder climate than other areas - we had 61.3 hours compared with 86 for Sydney, 120 for Prospect, 102 for SEQEB, 106 for South Australia, 267 for Tasmania, 438 for Melbourne and 188 for Western Australia. Again, we are the lowest. In terms of return on operating assets - that is, what the ratepayer gets back by way of a dividend from the electricity distribution side - we had a return on assets for electricity of 16.4 per cent, compared with 6.3 per cent for Sydney, 9 per cent for SEQEB, 7.8 per cent for South Australia, 11.4 per cent for Tasmania, 11.6 per cent for Melbourne and 14.8 per cent for Western Australia.

On each of those three indicators the ACT Electricity and Water Authority - an efficiently run, publicly owned statutory authority - is leading the way in Australia. Madam Speaker, hopefully, if the members opposite actually did read the paper this morning, we will have no more inane comments that you merely wave the magic wand of privatisation or corporatisation and all will be better. We are leading the way with our public authorities.

Hennessy House

MR CORNWELL: Madam Speaker, my question is addressed to the Minister for Health. In this Mental Health Week I ask you, Minister, whether you are aware that the waiting period to obtain a bed at Hennessy House has blown out to as much as six months and this is causing severe pressure on other mental health services, including psychiatric beds at Woden Valley Hospital? I ask: What are you doing to rectify this problem?

MR BERRY: This is the mob opposite that complains when you spend more money on the health system and we can - - -

Mr Humphries: When?

MR BERRY: Mrs Carnell, of course, complained when the Government put more money into our hospital system. If we had listened to Mrs Carnell then and we had not put those extra funds into the hospital system, there would have been 2,000 or so fewer people treated in our hospital system as a result of her bleating. Mr Cornwell, on the other hand, is now arguing the "spend more" case as well. In terms of the waiting lists for Hennessy House, I expect that people who need treatment immediately, emergency treatment, get it, and of course - - -

Mr Humphries: You are wrong, Minister. They do not get it.

Mr Cornwell: The waiting list has blown out to six months.

Mr Humphries: You do not know what you are talking about.

MR BERRY: I am saying to you that we do what we can with the resources that are available in our health system. You people complain that we spend too much. What we are doing is providing the levels of services that are required within the resources that we have available.

MR CORNWELL: I ask a supplementary question, Madam Speaker. I will help the Minister. In view of the six-month waiting list at Hennessy House, why has the Minister not opened the currently unopened second house on the Hennessy House site?

MR BERRY: Certainly, I will inquire into that matter. I do not have the details at my fingertips, but I will certainly inquire into the matter and report back.

Youth Alcohol Strategy

MS SZUTY: Madam Speaker, my question is also directed to the Minister for Health, Mr Berry. On page 120 of the Government's Youth Budget Statement 1993-94 it is stated:

> A Youth Alcohol Strategy is being coordinated by the Alcohol and Drug Service, for which a Background Paper was released in 1992.

My question of the Minister is: Given that the Select Committee on Drugs presented its report *Alcohol and Youth: a Rite of Passage?* earlier this year, and the Government is yet to respond to the report, how does the Government intend to go about addressing the development of its youth alcohol strategy, and when might the issue be considered by the Assembly?

MR BERRY: There is no doubt that the committee's report was comprehensive, and a whole-of-government response is required. The level of response requires considerable coordination, and I am advised that that is currently being developed. ACT Health is currently consulting on the development of a youth alcohol action plan for the ACT which will be launched on 10 November 1993, according to my advice. This plan is broadly consistent with the recommendations made in the select committee's report.

So we are getting on with it, Madam Speaker, and I am sure that a comprehensive report will be available for consideration by members of the Assembly once it has been prepared. I would like members to bear in mind that a considerable amount of coordination is required in putting together that response. On the face of it, that is an explanation of why there is some delay. In relation to action on the matter, we are developing our plan and, as I have said, the proposed launch date is 10 November 1993.

Dickson Swimming Centre

MR MOORE: My question is also directed to Mr Berry, but in his capacity as Minister for Sport. Madam Speaker, because there is some detail in this question, I gave the Minister notice earlier today. Minister, can you explain how much money has been spent on the upgrade of the Dickson pool over the last couple of years? Did the money include an upgrade of the boilers at the Dickson pool? You would be aware, Minister, that some people buy season tickets for approximately $170 and they may at this moment be feeling very badly done by, because only a week-and-a-half after opening for this season the pool is running at about 20 degrees centigrade, which contrasts with normal running temperatures of pools at this time of the year of around 26 to 28 degrees. The manager has explained to his members that the boiler is not functioning from about 11.00 pm onwards.

MR BERRY: I thank the member for the question, Madam Speaker. I understand that over the last week the boiler at Dickson Swimming Centre has failed intermittently, usually overnight, which confirms the point you raised with me, Mr Moore. One of my staff members told me that a relative had gone to the swimming pool a week or so ago and found it to be exceedingly warm, so the boiler might have worked in the opposite direction on the day that she was there.

ACT Public Works officers have attended the pool on six occasions in the last week and have carried out investigations into the fault. It looks as though those officers do not have the magic wand that Mrs Carnell would like the Government to have in relation to certain matters, so they are having some difficulty with the fault. Despite their work, the fault has not been eliminated. A boiler contractor is continuing to work on the problem. It is obviously some testy little problem that needs a fair bit of sorting out by a technician. The Government, of course, regrets the inconvenience to Dickson pool patrons which has been caused by the faulty boiler, and I can assure the Assembly that everything possible is being done to locate the cause of the problem and to repair the boiler as quickly as possible.

Mr Moore, in the course of his discussions with me this morning, raised a couple of other issues that I said I would respond to in brief. The centre is managed on behalf of the ACT Government by the ACT branch of the Royal Life Saving Society under a contract of management. The contract is for five years, expiring on 30 September 1996. Under the contract the society is paid an operational subsidy of $42,000 per annum. This is reviewed and adjusted annually according to movements in the consumer price index.

In relation to the money that we have spent on that centre, a major upgrade of the centre was completed in 1992, which you probably recall being mentioned in one way or another in the budget process. That included expenditure of $740,000 on plant improvements, painting, elimination of leakages and the provision of shade cover over the children's pool. I understand that at the request of the pool management no work was carried out on the boiler at that time. The boiler is a problem which we are not happy about. Of course, you are never happy when these sorts of intermittent problems occur, but we are on the ball trying to sort the problem out in conjunction with the management at the pool.

Hospital Services

MR HUMPHRIES: My question is addressed to the Minister for Health. In the memo of 11 October that has been referred to already today, details of the hospital shutdown for this coming Christmas were announced. I understand from that memo that for the period from 18 December to 3 January 185 beds are to be closed compared with 184 last year; from 4 January to 17 January, 141 beds compared with 161 last year; from 18 January to 24 January, 124 beds compared with only 37 last year; and from 24 January to 31 January, 124 beds compared with none last year. Last year a saving of $1.15m was achieved by closing for four weeks. Since the Minister cannot tell us by how much the waiting lists are going to grow as a result of the projected closure next Christmas, can he tell us how much will be saved by the closure of six weeks he is projecting for this coming Christmas?

MR BERRY: Again Mr Humphries avoids the issue of how many people we are going to treat. We have been provided with resources to treat 50,500 people in the full year. That is an expanded number of services and we have been provided - - -

Mrs Carnell: No. It is the same as last year.

MR BERRY: Wait a minute. It also includes a fairly large growth in other services as well. As in previous years - and I have explained this to Mr Kaine - there will be a planned reduction in elective services at Woden Valley and Calvary public hospitals over the Christmas-New Year holiday period. The closures are virtually identical to those in previous years. The period of reduction in services will be between 18 December 1993 and 31 January 1994 at Woden, and between 21 December 1993 and 18 January 1994 at Calvary public hospital. During these times the number of beds and operating theatres available in the public hospital system will be reduced to a level that is in line with the reduction in elective services.

Again I assure the Assembly that during this period the services to those needing urgent or emergency care will not be affected. That puts the lie to the suggestion by Mrs Carnell that the hospital was going to close, because it is not going to close. The accident and emergency departments at both hospitals will continue to operate on a 24-hours-per-day basis. Mr Humphries, we have been funded for 50,500 patients.

Mr Moore: The same as last year.

MR BERRY: The same as last year, and we will provide those services under our more efficient bed management strategy. Of course, what you did fail to mention was the Easter closures which happened the year before.

MR HUMPHRIES: I ask a supplementary question, Madam Speaker. I return to my question. How much are you going to save by these measures?

MR BERRY: I repeat that we have been funded to provide services for 50,500 people, and the bed management strategy is designed about providing services to that number of admissions throughout the hospital system, so we will be providing our services more efficiently than last year.

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

PAPERS

MRS CARNELL: I seek leave, Madam Speaker, to table the letter from Dr Bernard Hughson that I referred to in my question.

Leave granted.

MR DE DOMENICO (3.18): Madam Speaker, I seek leave to table the two documents that I referred to in asking a question of the Chief Minister this afternoon.

MADAM SPEAKER: You have already been denied leave on that.

MR DE DOMENICO: I move:

> That so much of standing and temporary orders be suspended as would prevent Mr De Domenico from tabling two documents he referred to when asking a question of the Chief Minister this afternoon.

This afternoon I asked the Chief Minister about Mr Wright and a cheque that bounced, and I sought leave to produce evidence of that fact to the Chief Minister. I cannot see why the Government or anybody else would refuse leave to table documents referred to in a question. That is the reason why I have had to take this stand. I do not know what the Government is frightened about, but there are the documents and they are the reason why I am taking this action.

MS FOLLETT (Chief Minister and Treasurer) (3.19): Madam Speaker, while we are on the subject of bouncing cheques I would like to remind members opposite that during the period of the Alliance Government Mr Kaine's Finance Minister, Mr Craig Duby, in fact wrote a cheque which bounced and this information found its way into the *Canberra Times*. When I was asked to comment on that matter I would not comment on it, because I think that to do so is sleazy. Of course what was said by Mr De Domenico is a descent into utter sleaze. Nevertheless, at the time that that incident occurred in the course of the Alliance Government, there were calls, including calls in this chamber, for Mr Kaine to sack Mr Duby. In fact, I remember probably one of the most virulent *Canberra Times* editorials I have ever seen in my life being on that subject.

Nevertheless, the Liberal Government of the day did not sack the then Minister for Finance for the same offence that Mr De Domenico now accuses Mr Wright of. Mr Duby was in this house to defend himself, Madam Speaker, and that was one major difference. He also had his then Chief Minister, Mr Kaine, defending him as well. Madam Speaker, I think that the action that Mr De Domenico is taking in this matter is a gutter tactic. It is an utter gutter tactic. It adds nothing to the debate that we have already had, and it is merely a further attempt to smear a particular member of this community. It is disgraceful.

MR HUMPHRIES (3.21): Madam Speaker, Ms Follett seems to have misunderstood the nature of this exercise. This is not a question of finding out who bounces cheques and who does not. It is a question of a person occupying a publicly funded position on the basis of his supposed good business acumen, his good business reputation. Those were the Chief Minister's words. Madam Speaker, the fact of life is that whatever Mr Duby may have done - and I have no doubt that Mr Duby did indeed bounce a cheque on the occasion referred to - the question is: What was the follow-up from either of those individuals in question when that cheque bounced? As far as I am aware, Mr Duby's problem was resolved very quickly when Mr Duby made sure that the money that was not paid over on the dishonoured cheque was paid. Madam Speaker, Mr Duby honoured his debts when they were due. The difference between Mr Duby and Mr Wright is that Mr Wright's cheque was written on 28 February 1989 and it still has not been honoured - and it is now October 1993. That is - - -

Ms Follett: That is probably not true.

MR HUMPHRIES: Madam Speaker, if it is not true Mr Wright can indicate how we are wrong. The fact of life is that the cheque has been written and it has not been honoured. The Minister claims that Mr Wright is a man with a good business reputation. I say that if these allegations are true - and I believe that they are true, and I believe that Ms Follett knows that they are true, because she would not answer Mr De Domenico's question today - - -

Ms Follett: How would I know that?

MR HUMPHRIES: You should have taken it on notice, then, should you not? Madam Speaker, if the allegations are true, then Mr Wright's capacity to hold the position on the tourism advisory committee has to be called into question. Nobody who has withheld payment on the basis of his good business acumen for four years is entitled to call himself a man of good business reputation. As such, these documents ought to appear on the public record and ought to be tabled in this Assembly.

MR LAMONT (3.23): Madam Speaker, the utter hypocrisy and nonsense that has gone on here since question time is something of which this Assembly should be eternally ashamed. We have seen probably the most obvious act of revenge, of malice. I will stand up and defend what I said last evening about Mr Snow. It was one thing for Mr Snow to criticise the ACT Government, and particularly the Chief Minister, because the Chief Minister was not prepared to accept his words.

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

MR LAMONT: You raised the question, Mr Twenty-six Million Dollar Man. If you do not like the answer it is your problem.

Mr Humphries: I raise a point of order, Madam Speaker. We are talking about Mr Wright, not about Mr Snow, and I ask Mr Lamont therefore to be relevant.

MADAM SPEAKER: Mr Lamont, I believe that you will get to the point.

MR LAMONT: If the Twenty-six Million Dollar Man and his sidekick Threepence did not interject so much, I might get the opportunity to speak specifically about it. The simple fact is that in an absolutely outrageous manner Mr De Domenico and now three of his cohorts have attempted to continue to smear the name of an individual. Whether it is Charles Wright or anybody else, it is absolutely outrageous and this Assembly should not allow it to occur. Not only have they gone through with this deliberate smear campaign; they have even ensured that the name of the payee on the alleged bounced cheque has been removed. So how are we, in any test, expected to verify that? You have walked in here - - -

Mr De Domenico: Ask Mr Wright.

MR LAMONT: Why do you, Mr De Domenico, in your righteous fashion, not walk outside this Assembly - you gutless man - and say, without parliamentary privilege, the things that you have been saying here this afternoon?

Mr Humphries: You say it about George Snow and he will be in it.

MR LAMONT: Quite happily. Do you want me to walk outside and say, without parliamentary privilege, the things I said about George last night? I have said the same things in conversation to George and at public meetings too, and do you know who gets probably the most fun out of all that? George. That simply is the fact. The sleazebag way that you and your sidekick have continued to vilify this man is absolutely outrageous and something which this Assembly should be ashamed of.

Mr Humphries: I raise a point of order, Madam Speaker. I think that to describe some member of the Assembly as a "sleazebag" - - -

MADAM SPEAKER: Nobody described a member. It was "the sleazebag way", and I allow it.

Mr Humphries: Is it not unparliamentary, Madam Speaker?

MADAM SPEAKER: No, I allow it. It was not directed at a member.

MRS GRASSBY (3.26): I think it is rather disgusting. What really makes me more disgusted about it, Madam Speaker, is the fact that Tony De Domenico said to Charles Wright that he voted against this in the party room. He said, "I voted against it". This is what he said to Charles Wright. Here he is again in this house, just trying to get into the *Canberra Times* and to destroy a person who is not in this house. You can say what you like about people in this house, but to destroy somebody who cannot stand up for their rights is rather disgusting, Madam Speaker. Then to go out and tell them, "I did not support it in the party room" - - -

Ms Follett: "It was not me."

MRS GRASSBY: "It was not me", he said, Madam Speaker.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (3.27): It has just dawned on me what has been going on here. Mr De Domenico indicates that - - -

Mr Humphries: I take a point of order, Madam Speaker. Mr Berry has spoken once already in this debate.

MADAM SPEAKER: No, he has not.

MR BERRY: Wrong again. You keep getting it wrong. You are a good double. Very conveniently, they have blanked out the name of the payee on the cheque so that we would not find out that it was one of the Liberal Party members opposite to whom the cheque - - -

Mr Humphries: That is rubbish. That is not true.

Mr De Domenico: Sit down, Wayne. That is rubbish.

MR BERRY: Look at the smug look on Mr Westende over there. Was it you, Lou?

Mr Westende: I can look smug because I did not lose anything. It was not made out to me, thank heavens.

MR BERRY: Well, it has to be something like that; otherwise they would not be so bitter and twisted. Why on earth are they pursuing such a vindictive course? There is no reason, except that somebody has shone out like a light in comparison with their performance. This person has been able to do things and they are doing nothing. It is the old tall poppy stuff. He is not on their team and if you are not on their team you deserve some sort of a vindictive attack. Well, I have had enough. It is just disgusting. I think this is just another demonstration of the depths to which you will stoop. I said before that you could walk upright beneath a snake's belly. I think that is true. And you have not improved; you are going backwards.

MRS CARNELL (Leader of the Opposition) (3.29): Madam Speaker, I think we might have lost the plot here a bit as an Assembly. The thing that we are debating here is the right of any member to table documents that back up or that add to a statement they make, a question they ask or a speech they make. Surely every person here would back up every Assembly person's right to table such documents in this place. It is not a matter of whether you may or may not agree with our position on this. It is a matter of the appropriateness of being able to table documents to back up a question, a speech or a statement. It is appropriate. It is parliamentary.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.29): Madam Speaker, Mrs Carnell seeks to divert attention from the essentially personal and spiteful attack on Mr Wright that the Opposition is engaging in here. She attempts, I suspect, to get Independent support for the proposition that they should be allowed to table these documents because it is any member's right to say anything in this house and to back it up by tabling documents. Madam Speaker, that strictly is true. It is a right protected under parliamentary privilege; but, as most members of this chamber acknowledge, that right carries with it an enormous responsibility. It is a right which, if abused in the way the Liberal Party is abusing it, gives them carte blanche to blacken reputations with smear and innuendo and to destroy individuals out there in the community.

The Government would not dispute the proposition that members have a right to say things in this chamber; but this Government would say that it is appropriate for members in this chamber to say to other members who are acting in a gutter manner, who are using that enormous power of parliamentary privilege to blacken other people's names, that enough is enough, and that in this case you should not get leave to table these documents to besmirch an individual. That is not disputing the principle that members have, under parliamentary privilege, a right to say anything; it is adding to that principle to say that that right must be used responsibly and not abused to vilify individuals who have no right of response.

Question put:

> That the motion (**Mr De Domenico's**) be agreed to.

The Assembly voted -

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

Question so resolved in the negative.

AUDITOR-GENERAL - REPORT NO. 8 OF 1993
Redundancies

MADAM SPEAKER: Members, I present, for your information, Auditor-General's report No. 8 of 1993, Redundancies.

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

That the Assembly authorises the publication of Auditor-General's report No. 8 of 1993.

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

That the Assembly takes note of the paper.

FINANCIAL INSTITUTIONS
Papers and Ministerial Statement

MS FOLLETT (Chief Minister and Treasurer): Madam Speaker, for the information of members, I present the Australian Financial Institutions Commission's annual report for 1992-93, and the Registrar of Financial Institutions' annual report for 1992-93, including financial statements and the Auditor-General's report. I ask for leave to make a brief statement.

Leave granted.

MS FOLLETT: Madam Speaker, the introduction of the financial institutions scheme on 1 July 1992 marked a major event in the history of the finance industry in Australia. For the first time a uniform national scheme for the prudential supervision of building societies and credit unions is in place. Its implementation was achieved through a high level of cooperation between the States and the Territories following the decision by the October 1990 Special Premiers Conference to establish a national scheme. The previous applicable law was contained in some 25 Acts of State and Territory legislatures. This was replaced by one principal statutory regime which was enacted as template legislation by the Queensland Parliament and adopted as applicable law by all other States and Territories. These two annual reports cover the first year of operations at the national and ACT levels.

The Australian Financial Institutions Commission is the national body charged with the responsibility for setting high prudential standards for the industry and overseeing the supervision of those standards by State and Territory supervisory authorities. The commission reports to the Ministerial Council for Financial Institutions, on which each State and Territory has equal representation. The ACT Registrar of Financial Institutions was established as the ACT supervisory authority on 1 July 1992, with responsibility for the day-to-day supervision of institutions to ensure compliance with all applicable standards. Madam Speaker, I am pleased that the ACT is a full and equal participant in the financial institutions scheme, which is an excellent example of the micro-economic reform achievable through cooperation between the States and Territories.

PAPERS

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

> Chief Minister's Department, annual report 1992-93, together with the financial statements and the Auditor-General's report, including the 1992-93 annual reports with financial statements and the Auditor-General's report from the Agents Board and the Casino Surveillance Authority;
>
> ACT Treasury annual report 1992-93, together with the financial statements and the Auditor-General's report, including the annual reports 1992-93 from the Commissioner for ACT Revenue, pursuant to the Taxation (Administration) Act 1987, the Registrar of Cooperative Societies, pursuant to the Cooperative Societies Act 1939, and the Bookmakers Licensing Committee, pursuant to the Bookmakers Act 1985;
>
> Attorney-General's Department, including the Housing and Community Services Bureau, annual report 1992-93, Volume 2, together with the financial statements and the Auditor-General's report; and
>
> Department of Education and Training annual report 1992-93, together with the financial statements and the Auditor-General's report.

LAND (PLANNING AND ENVIRONMENT) ACT LEASES
Paper

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning): Madam Speaker, for the information of members, and pursuant to the Land (Planning and Environment) Act 1991, I present a schedule which details the leases granted in the last quarter ending 30 September 1993.

RETAIL AND COMMERCIAL TENANCIES
Draft Code of Practice and Discussion Paper

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.37): Madam Speaker, for the information of members, I present a discussion paper on the ACT draft code of practice for retail and commercial tenancies, together with the ACT draft code of practice for retail and commercial tenancies. I move:

> That the Assembly takes note of the papers.

Madam Speaker, I wish to advise the Assembly that the Government has released for public comment a discussion paper and an initial draft code of practice on retail and commercial tenancies. Members will be aware that retail and commercial tenants in the ACT have been seeking a more balanced relationship with landlords for many years. Many States already have regulations in place and others are now looking towards it. This Government is determined to rectify the position for the ACT. In doing so, we want to ensure that the code is a progressive and responsive arrangement which will not only redress the imbalance in bargaining power between landlords and tenants but also provide a clear framework for lease arrangements between the two parties. This should be of advantage to both sides.

The Fair Trading Act 1992, which provides for, amongst other things, the development of codes of practice, is being used to develop codes in respect of retail and commercial tenancies, the fitness industry and the motor vehicle repair industry. The discussion paper and initial draft code released today have been prepared by the Director of Consumer Affairs, recognising the work of a working party comprising the principal business, landlord and tenant organisations in the ACT and the Consumer Affairs Advisory Committee. Both documents reflect issues raised as a result of the first public consultation process commenced by the Director of Consumer Affairs in March this year, under the terms of the Fair Trading Act, and submissions made by individual members of the working party. While the working party has reached agreement on some key issues such as rent determination methods, unconscionable conduct and proposals for dispute resolution, some important issues remain to be resolved. Members will find in the green document the code which represents points which have been agreed between all the interests to these discussions, and in the white paper essentially a summary of issues which remain to be resolved.

The release of the discussion paper and initial draft code will provide a second opportunity for public input before a final code can be prescribed by the Government. The Government's intention is that the outcome of this process will be a progressive and responsive regulatory arrangement for the industry, to meet the needs of both tenants and landlords involved in retail and commercial lease arrangements. It will provide a balance. On the one hand, it will give tenants the opportunity to negotiate on an equitable basis; on the other, it will maintain the ACT's good reputation as a place for investment. What we do not want to do is to stifle initiative, yet at the same time it is clear that increased protection is required for retail and commercial tenants. The proposed regulation will address these issues by, firstly, ensuring that tenants have a clear framework within which to negotiate their leases; secondly, providing for specific conditions to be met in the lease; and, thirdly, providing a fast, simple and low cost method of resolving disputes. Mr Deputy Speaker, I commend the papers to the house.

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

HOUSEHOLDER SURVEY REPORT
Ministerial Statement and Paper

Debate resumed from 19 October 1993, on motion by **Ms Follett**:

That the Assembly takes note of the papers.

MRS CARNELL (Leader of the Opposition) (3.41): Yesterday, in my speech on the householder survey, I got to the part on health, I think. On the subject of health services, this survey was very interesting, Mr Deputy Speaker. The survey said that 54 per cent of people who had used the public hospital service in Canberra over the last 12 months perceived that the service was either average or below average. I think it is actually even more interesting to have a look at the comparison of services that were received at Calvary Hospital and those received at Woden Valley Hospital. It was interesting that, in the case of patients who had been in for one day or more, 67.7 per cent of those who had been in Calvary believed that the service was of a high standard, whereas only 44 per cent believed the same at Woden. There was a 23 per cent gap for two hospitals, both public hospitals and both publicly funded. It was also interesting in that, for those people who had been in for more than one day and who believed that the service had been of a low standard, in Calvary it was only 9.4 per cent, while in Woden Valley it was 20.8 per cent - an 11 per cent difference. That is a quite dramatic difference.

When you look at the casualty services, or the people who used casualty and what they perceived about their service, at Calvary the figure for people who believed that it was of a high standard was 46.1 per cent; at Woden it was only 29.4 per cent - a 16.7 per cent difference. Again, in casualty, for those who believed that the standard of the service that they got in casualty was low, at Calvary it was 19.4 per cent and at Woden 36.1 per cent. I wonder, if this is a public consultation document, as the Chief Minister said it was, what she and her Health Minister, Mr Berry, have done about these figures. I would suggest that they are very disturbing figures, from the point of view of Woden Valley Hospital anyway. If you have a situation where 36.1 per cent - more than a third - of all people who go to casualty at Woden Valley believe that the service is of a low standard, I suggest that something should be done. But where in the budget, Mr Deputy Speaker, did we see either Ms Follett or Mr Berry address these awful results? They did not address them anywhere in the budget, or anywhere else since.

Mr Berry: Seventy per cent think it is good.

MRS CARNELL: Mr Berry, 70 per cent do not think it is good; 70 per cent think it is average or better. That is not good. If we have a situation, as I say again, where you have a huge difference in the public acceptance ratio between two hospitals in the same city on either side, you would want to ask lots of questions as to why this happened; but no, we have not seen any of that. That really shows how this Government treats public consultation.

It is all very well to put out forms where people can tick little boxes and you get the results back and they are pretty tables, but if you do not do anything with the information you get you may as well not have spent the money in the first place. Community consultation results have to be acted upon, or, at the very least, they have to be part of any decision making process, if that money is to be well spent. It would appear that the Government listens to only what it wants to hear.

I think Mr Berry's interjection before really shows this. It does not look at the areas of the results that really are of concern to all of us in Canberra. He looks only at the bits that he likes. Obviously, this Government seems to suffer from a selective deafness on many issues, and we see it all the time - issues such as the hospice, Acton Peninsula, petrol taxes, diesel fuel and education. We saw the education issue this morning. More and more Canberrans each day realise that this sort of approach to community consultation is an exceedingly hollow approach.

Mr Berry: Spend more, spend more!

MRS CARNELL: No, Mr Berry; what I am saying is spend less this time. I am saying that if you are going to have a survey, if you are going to consult the public, and if you are going to spend public money on it, Mr Berry, use the results; otherwise you may as well save your money and not do it.

MS SZUTY (3.46): The 1993 householder survey has been a success in one way, in that the response rate from Canberrans has risen by 75 per cent over the 1991 survey. The sample size is, therefore, much more representative of the Canberra community as a whole, with some 34,107 households responding out of over 102,000 surveyed. I found the format more user friendly than that used in 1991, which possibly accounted for part of the increase in the response rate received. It is of no benefit, in a voluntary survey, to have detailed information gathered if the questionnaire is not easily read, simply completed and easily returned - criteria that this year's survey obviously fulfilled. The exercise obviously also was beneficial to residents. The response rate reflects the fact that householders found the topics covered to be ones they had views on and were prepared to comment on. The range of topics also expanded in this survey from seven to 11 questions - a fact which was probably appreciated by respondents.

One issue I would like to take up arising from the 1991 survey is the proportion of ratepayers and Housing Trust tenants who stated that they thought it would be a good idea to carry out such an exercise on an annual basis. Some 75 per cent of the initial survey respondents felt that having a say on government services and community needs each year would be welcome. I encourage the Government to adopt this idea and to look at ways to make this survey an annual event. After all, the Government has stated that it found that the information received is useful for agencies and is being used in the development of 1993-94 management plans. I am aware that the exercise costs money; however, there may be more cost-effective ways of conducting the survey. Including the survey in other regular mail to residents, such as rates accounts, could improve efficiency.

I would like to turn now to an issue which I believe could be taken up in the next householder survey, and that is the extent to which householders are volunteers in our community. I believe that this is an important question to address. Volunteers are involved in a great many community activities, including community groups, committees and councils, management committees, sporting associations, arts and park care groups, residents associations, P and C associations, school boards and Neighbourhood Watch organisations, to say nothing of interest and hobby groups. We also know that the demand on the work of volunteers in our community is always growing. Information based on the extent of voluntaryism in our community would inform the Government about what is being done already and what realistically could be done in the future to cater for growing demand.

Mr Deputy Speaker, the Chief Minister, in her tabling speech to this Assembly, said that the next householder survey would be conducted in 1995. I would hope, if this cannot be brought forward, that the Government might consider approaching members, either informally or through the Assembly process, to discuss questions that could be surveyed. I am sure that members would contribute sensible and worthwhile suggestions for questions. Members, in the course of their work in the Assembly, are in a position to identify information gaps and would, I suggest, welcome the chance to have input into this exercise in the future.

Question resolved in the affirmative.

YOUTH MINISTERS COUNCIL AND NATIONAL YOUTH POLICY
Ministerial Statement

Debate resumed from 24 August 1993, on motion by **Ms Follett**:

> That the Assembly takes note of the paper.

MS SZUTY (3.50): I welcome the continuing work of the Youth Ministers Council and the formulation of the national youth policy. I agree with the Chief Minister that production of this document is a landmark in progressing the consideration of matters affecting youth at a national level. I am pleased that this very important area of national policy has seen agreement in policy formulation. The Chief Minister took some time, both in her address to the Youth Ministers Council and in presenting her report to the Assembly, in detailing the measures which have been taken by the ACT Government to progress youth issues in Canberra.

I congratulate the Government on the introduction of a youth budget, as I believe I have stated previously in the Assembly. It was high on the Chief Minister's list of achievements in the field of youth affairs and was a positive and necessary step in ensuring that we do not lose sight of the need to look at the impact of all government programs on young people. In the next budget I am looking forward to the much anticipated social justice budget statement, which I expect will address issues of concern for other people, such as the elderly and those with disabilities in our community. For the present I see the development of a special youth budget statement as a welcome move.

The national policy actually starts by expressing the principles which guide its objectives. The policy states:

> The development and implementation of youth policy and programs should be based on the following principles:
>
> EQUITY
>
> Recognition of the rights, and associated responsibilities, of all young people to equality of opportunity and equitable distribution of services and resources.

PARTICIPATION

Recognition that young people are participants in society and as such have a role and responsibility in making decisions which affect their lives.

ACCESS

Access to adequate and appropriate programs and services for all young people regardless of gender, geographic location, social, cultural or economic circumstances.

Such words are indeed inspiring. They conjure up images of young people striding purposefully forward, with the support of governments and adults, to overcome any disadvantage in reaching their full potential. However, it can be argued that in particular circumstances the present reality is different and we need to work proactively to ensure that these principles are adhered to in the fostering of and delivery of services to our young people.

Mr Deputy Speaker, I do not intend or wish to criticise or disparage the Government's efforts with regard to young people. I feel that it has made progress in addressing the objectives of the national youth policy and needs to be encouraged to do more in this area. Many initiatives will have a financial cost. These will need careful consideration and planning over several years. But the Government, in its involvement and participation at a high level in development of the youth policy, has shown this commitment. It has taken many measures to implement facets of the policy and I recognise the importance that the Government has placed on this area of government activity in difficult economic times. When looking at the budget it is easy to see that the majority of new funding is going towards what might be seen as crisis and intervention services, and in times of economic restraint the Government needs to be congratulated for finding funds to do such things as expanding child-at-risk assessment, looking at youth and alcohol issues, and providing for youth who have special needs, particularly those young people with mental health concerns who need access to after-hours and crisis intervention services.

I also welcome the Government's moves to cater for the recreational needs of youth, with funding for a new youth centre in Tuggeranong, improvements to Civic and Belconnen youth centres, and the completion of the Fadden Pines skateboard park. Further initiatives will have an impact on young people but are not specifically targeted at young people, having a broader social application, such as the extension of concessions. This is a welcome move, as young people can be forgotten as being a very large proportion of those in our community on very low incomes. I do not, however, see the youth budget as all good news. I would like to see further development on, for example, the establishment of the adolescent ward - a subject this Assembly has debated already and agreed upon. I also note that the youth budget is a good news edition, not tackling or addressing areas where the budget may have a negative impact on programs affecting young people, such as in education.

Mr Deputy Speaker, in national terms, I am sure that in fulfilling the national youth policy's objectives we will see many responses from State and Territory governments, but I am sure that there will be as many approaches to achieving the objectives of the national youth policy as there are governments involved.

A proactive approach needs to be taken in delivering on the promise that this youth policy gives to the community, particularly young people. By this I mean that State, local and Federal governments cannot look for an overall improvement in the economic climate before they implement programs for young people; nor can they link improvements in the lot of young people to improved conditions for the business sector. Young people are not only our future workers; they are future planners, thinkers, environmentalists, professionals and adventurers, among others. Our programs must identify their needs and act on those needs as a matter of urgency or today's young people will be left to repair the damage caused by inaction.

Mr Deputy Speaker, I would like to turn to the specific objectives of the youth policy, the matters which the youth Ministers have agreed to progress. The first is consultation - a matter the ACT Government takes very seriously. The Chief Minister has talked a lot about the work of the Youth Advisory Council, and I feel that it is a positive move for government to position young people so close to the head of government, the Chief Minister. I would question, however, its breadth of consultation and advice. For example, I would be interested to know what the Chief Minister's Youth Advisory Council thought of the proposed cuts in teacher numbers in our schools. The principle of participation would indicate to me that, in an area such as this, with potential ramifications for young people, the Chief Minister's Youth Advisory Council would be a useful forum for debate of such an issue. I note that the council looks at many other issues, such as homelessness, health and welfare, but in the area of education we are still not asking for the opinions of young people in what are critical areas of government activity. I, for one, would be interested to hear of the council's comments.

The national youth policy next makes it incumbent on all youth Ministers to ensure that governments recognise their roles and responsibilities, and to develop and strengthen coordination and cooperation between all levels of government. In the ACT this, fortunately, will have limited application, as the ACT Government fulfils both local and State functions. But the ACT can play a very important role in the region, and in reminding the Federal Government of the need to keep youth issues in the forefront of its policy initiatives. The policy's third objective is to ensure that there is additional assistance for disadvantaged young people - an area where I am sure that the ACT is doing a good job in most areas. However, we can always do better. In education, I feel that the stated objective of high-quality and relevant educational opportunities to equitably meet the needs of all young people is one where we will soon find ourselves wanting.

The national youth policy also addresses the needs of young people in the areas of employment, environment, family and community life, health, housing and accommodation, income support, information, sporting, recreational and cultural needs, transport, vocational education and training, and the needs of those who work with young people. But the one area which I feel states the most fundamental objective is that of justice. The first statement of the justice objective is that Ministers should work "to ensure that young people are safe from exploitation, abuse, discrimination, neglect and violence". When taken to its logical policy extent, this one statement states a need for equity for young people, and places the onus on society to protect and nurture our young people, by providing them with the education, information and support they need to

progress to an independent adulthood. Considerable effort needs to be put into achieving this particular objective, as it deserves our highest consideration. The justice area also states the need for young people to be able to participate in the legal process, to be aware of their rights, and to be treated justly when they come into contact with the criminal justice system.

All the objectives, on my reading of this policy, are achievable and realistic, and attach values to policy affecting young people. We are achieving much in the programs which have been put in place in the past. In conjunction with the States, I feel that we must move forward from here, not bringing about a lowest common denominator of service provision as a result of all States and Territories adopting this policy position. It is important that we achieve from this process the highest standard of services and outcomes for young people. Mr Deputy Speaker, I encourage the ACT Government to lead by example, and to bring the principles and objectives of the youth policy into all areas of government policy-making.

MRS GRASSBY (4.00): Mr Deputy Speaker, I believe that the national youth policy is a significant advancement in public policy which seeks to improve and better coordinate the delivery of services to young people. After all, Mr Deputy Speaker, our young people are our future. For the first time the State, Territory and Commonwealth youth Ministers came together to support a holistic policy framework to effectively address the diverse needs of young people and their requirements for government services.

I think it is important to mention some of these areas where principles and objectives have been agreed upon nationally. Two of the most important areas of interest and concern to young people are education and employment. We all know, Mr Deputy Speaker, that without a good education it is very difficult to get employment these days. They want to have access to quality education and training, but they also want this education to be relevant and flexible. Not all people want to go on to university. Today many people want to have a trade. So it is not just education at a university; it is education at a TAFE college.

As we have all learnt recently from some of the figures that have come out of our own TAFE college, more people go on to jobs after a TAFE education than after a university education. It takes longer for a person with a university education to find a job than it does for somebody from a TAFE college. I believe that education reforms over the last decade by the Federal Government, which include credit transfer arrangements in higher education and more flexible delivery of education through articulation arrangements, are quite positive. It is also great to see our own Canberra Institute of Technology being a more flexible and relevant provider of education and training. These more flexible arrangements significantly improve the ability of young people to further their education and to enhance their job prospects.

Mr Deputy Speaker, it is a truism that employment prospects are very much related to educational attainment and training. I think a lot has been done by governments of all political persuasions over the last decade to raise levels of educational attainment and training. We need to think very much about our young people. As I said earlier, Mr Deputy Speaker, our young people are our future. They are the ones who will carry on after we have gone. Therefore, we have to think of their place in our society.

MS FOLLETT (Chief Minister and Treasurer) (4.03), in reply: I would like to thank members who contributed to this debate. I think we have had some very thoughtful contributions indeed, and they are very welcome. Mr Deputy Speaker, I believe that the support for the national youth policy that was demonstrated at the meeting of youth Ministers last May is very encouraging. It allows the recognition of young people's needs at a national level, and it provides an excellent foundation for the development of appropriate responses to them. As Ms Szuty said, there is always more that we can do, and I am very conscious of that. Nevertheless, I do think that we are making very good progress in the ACT. The national policy also allows for responses to occur in a coordinated fashion across the country, and this in itself will assist in providing a supportive and informative environment for young people which will encourage them to reach their full potential as individuals and as active citizens.

I believe, Mr Deputy Speaker, that the national youth policy provides a valuable tool to use in ensuring that our own policies and programs are developed and delivered in a manner that will benefit young people in the ACT. Most importantly, I believe that the provision of services within the principles and objectives of the national youth policy will assist young people to deal most constructively with the many challenges that they face. The national youth policy also acknowledges the need to enhance support to families in order to assist them to cope better with economic and social change and to protect young people from violence, neglect and discrimination. I think that support for families is an objective that all members could well support. It is, perhaps, an aspect of young people's lives and the policy approach to young people that has not been fully explored yet, and well could be. Mr Deputy Speaker, as is demonstrated by the youth budget statement that was released last month, this Government is committed to addressing the many difficult issues which young people face, and our close participation in the development and the implementation of the national youth policy will assist us in achieving this goal.

I would also like to touch very briefly, Mr Deputy Speaker, on the role of the Chief Minister's Youth Advisory Council. This body, Mr Deputy Speaker, invariably has given very good, very thoughtful and very well-researched advice to me. It is certainly a body whose work I value very highly. I do hope that in the coming months, perhaps the coming years, the Youth Advisory Council will be able to take on board the national youth policy and suggest to the Government further ways in which we can implement this youth policy for the young people of the ACT. I would like to pay a tribute to that Youth Advisory Council for the excellent work that they have done. I would like to wish them all the very best as they draw up a new work program and set their own goals for another term of the council. They have been of great assistance to the Government. I hope that they can see that their advice has been taken and has been implemented, and that even where it has not been implemented it is still being worked upon. I believe, Mr Deputy Speaker, that they deserve the thanks of the Government, and perhaps of the young people of the Territory as well, for the very fine job that they do.

Question resolved in the affirmative.

MOTOR TRAFFIC (AMENDMENT) BILL (NO. 4) 1993

Debate resumed from 16 September 1993, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

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

INSTRUMENTS (AMENDMENT) BILL 1993

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

That this Bill be agreed to in principle.

MR HUMPHRIES (4.08): My party is happy to support the Instruments (Amendment) Bill. The Bill does a number of things of varying degrees of importance. Perhaps the most significant is to provide the Registrar-General, as he is now to be called, with the capacity to destroy or to dispose of documents in certain circumstances. At present, as the Minister explained in his presentation speech, there is a problem in that such documents hang around after they have ceased to be of value. They are kept on the record for the sake of completeness, perhaps, in the records, and the inevitable result is an accumulation of outdated security documents, leading to storage problems and delays in access to documents by people who want to find out what is available.

Madam Speaker, it is appropriate that there be some capacity on the part of the Registrar-General to deal with those documents when they are clearly of no further value to the people lodging them or to anybody else. Proposed subsection 36A(1) sets out three circumstances in which the Registrar-General may dispose of documents. They are that the document has been discharged or satisfied; that the Registrar-General believes on reasonable grounds that the document's security - that is, the chattels or other securities referred to in the instrument - is no longer affected by the instrument; or that a period of not less than 10 years has elapsed since the date of the registration of the registrable instrument. They clearly give the Registrar-General the power to dispose of documents which are no longer relevant and no longer needed.

There is a problem with paragraph (c). I understand that the Minister proposes to delete paragraph (c). Obviously, some documents may be 10 years old, but the matters which they affect, the chattels or whatever it is that they affect, may still be on foot and require that the documents themselves be preserved. I think the power conferred on the Registrar-General in paragraph (b) is sufficient to deal with that situation. Madam Speaker, this Bill provides for more efficient operation of the Registrar-General's Office and, as such, it has the support of my colleagues and me. The amendment which we had commissioned will be covered, I understand, by the amendment of the Government and, as such, we are happy to support this Bill.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.11), in reply: Madam Speaker, I thank the Opposition for their general support for the Bill. The policy behind this amendment was to give the Registrar-General power to destroy registered instruments which are no longer operative. As the law presently stands, there is no power to do this and they simply mount up, creating storage problems. The Bill, in the form introduced, would allow destruction of documents 10 years after they were registered. On examining the Bill the Law Society of the ACT pointed out, quite rightly, that the proposed provisions had the consequence of permitting the destruction of documents which were 10 years old but which may still be active, for whatever reason, as Mr Humphries indicated. That was not the intended effect. Ten years was meant only as a guideline for assessing whether instruments were of such an age as to be no longer in force.

In response to the Law Society's concerns I have had amendments drafted, which I believe have been circulated, which will remove the reference to the age of the instruments. As a result the Registrar-General will have power to destroy registered instruments only when they have ceased to have effect. The amendments remove the proposed new paragraph 36A(1)(c), which would have required the Registrar-General to keep registered instruments for only 10 years, giving him or her the option to destroy them after that time. I now propose that the Registrar-General be able to destroy documents which have been discharged, which have been satisfied, for which a receipt has been registered or which he or she believes on reasonable grounds are no longer effective.

The practical effect of the changes contained in this Bill will remain as outlined in the introductory speech. The Registrar-General's Office will be able to get rid of documents which no longer are of any value and which the office at the moment is required to store. There will be benefits both in reduced storage requirements and in better access to current instruments. Giving power to destroy old documents is in accordance with an agreement reached at a meeting of State and Territory registering authorities quite recently. Madam Speaker, I thank members for their in-principle support and indicate that I will be moving amendments, which I will seek leave to move as a single block, to remove that potential problem about the 10-year-old instruments.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.11), by leave: Madam Speaker, I move:

Clause 5, page 2 -

Line 18, proposed new paragraph 36A(1)(a), add at the end "or".

Line 21, proposed new paragraph 36A(1)(b), omit "or" (last occurring).

Lines 22 and 23, proposed new paragraph 36A(1)(c), omit the paragraph.

These amendments, as I indicated, remove the reference to 10 years as one of the criteria for destroying documents and put the "or" in the correct place.

Amendments agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL (NO. 4) 1993

[COGNATE BILL:

LAND (PLANNING AND ENVIRONMENT) (CONSEQUENTIAL PROVISIONS) (AMENDMENT) BILL (NO. 2) 1993]

Debate resumed from 12 October 1993, on motion by **Mr Wood**:

That this Bill be agreed to in principle.

MADAM SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Land (Planning and Environment) (Consequential Provisions) (Amendment) Bill (No. 2) 1993? There being no objection, that course will be followed. I remind members that in debating order of the day No. 5 they may also address their remarks to order of the day No. 6.

MR KAINE (4.15): Madam Speaker, the Liberals in opposition are prepared to support this Bill along with the amendments that the Minister is proposing to it. However, there are a couple of comments that I would like to make in that connection. First of all, this is a new experiment. Mr De Domenico can speak for himself; but I am sure that, when it was put to us in the Planning, Development and Infrastructure Committee that such an appeal board should be established, both he and I had some reservations because there are the processes of the Administrative Appeals Tribunal currently open to anybody who wishes to appeal and, of course, there are the normal courts and the normal legal processes that can be followed. However, we did accept the argument from the

Government that there was a need for a less legal and more administrative appeal system - one which was less formal and which perhaps would not intimidate people who sought to lodge an appeal, one in which appeals could be heard in an informal way, in an informal atmosphere, and perhaps more quickly than within the Administrative Appeals Tribunal. So we have accepted in principle that this can be a system that is useful to ordinary members of the public.

It needs to be noted that this appeals board will have only a limited jurisdiction. There are certain matters that still will go to the Administrative Appeals Tribunal. I think some people may be a little confused as to which course they should take, whether they should go to the Administrative Appeals Tribunal or whether they should use this appeals board that we are now setting up. Hopefully, that should become clear with use and people will know which way they should go. It is noteworthy also that there is an appeal from the decisions of this appeals board to the Supreme Court. If anybody believes that their case has not been properly heard and they have not got the right decision, they do have the right to go to the Supreme Court in certain cases. It is a new system, an addition to the processes that have been available previously; but we accept that, at least in theory, it may offer something to the ordinary citizen out there who may be less put off if they want to process an appeal than they might otherwise be.

Speaking for myself, I have only one reservation about the Bill, but I am prepared to let it run, perhaps for a year, and to see how it works. Then we can discuss the matter with the Minister if needs be. My reservation is in connection with proposed section 282W. There is not, under this Bill, an unqualified right to legal representation. When an appellant comes before this board they do not have that unqualified right. They may have the capacity to be represented, with the approval of the chairperson of the board; but there really are only three cases in which the chairperson of the board may allow representation, and they have been specifically spelt out in the legislation. I would have thought that the three circumstances set out here are of such significance that where any one of these three conditions applied the person would automatically have the right, not at the discretion of the chairperson. They are quite clear and they are quite specific.

The first is where the complexity of the matter to which the proceedings relate is such that the appellant may require a legal person to present their case for them or to advise them. The second is where the appellant is of an age or in a state of health where they require somebody to assist them. The third is where the appellant has a lack of command of the English language. It seems to me that where any one of those three conditions applied the person ought, by right, to be able to be represented. That is not what the Bill provides. It provides that the chairperson may permit representation in those cases. I am prepared to let the matter run and to see whether or not there is any problem with that over the first year or so. I am sure that the Minister will be happy to discuss that matter with me in a year's time if there have been any difficulties. Other than that, it seems to me, on the face of it, to be a fairly straightforward Bill.

Mr Moore and Ms Szuty came to talk to me and I know that they have a number of amendments that they intend to propose. I have no difficulty with them, to the extent that they, perhaps, simplify the processes without detracting from the value of the Bill. Hopefully, in a very short time, the Assembly will have approved a Bill that will be of value to the community. We can let it run for a while and see whether that turns out to be the case. Madam Speaker, as I said, we support the Bill.

MR MOORE (4.21): Madam Speaker, I was just reminiscing with Mr Cornwell about when we used to discuss planning issues in the old NCDC days before Mr Wood was involved in planning, although he was certainly around as part and parcel of other community issues. At that stage, and even long before that, I was advocating a cheap and accessible appeals system as part and parcel of redoing our land planning systems. It is with great delight that I congratulate the Minister for getting this Bill and bringing it on today. It seems to me that the Minister has developed in this Bill a system that will provide an appropriate opportunity for people to have their appeals heard in a reasonable way.

Madam Speaker, my first experience of dealing with a planning appeal was an involvement with an appeal relating to the *Canberra Times* site. It was also the first time that I had ever had formal involvement with courts. I lodged an objection under the City Area Leases Ordinance, as it was then, and was required, as it turned out, not only to lodge an objection to the court but also to lodge the objection to the solicitors representing the proponents of the development. Madam Speaker, I did not do that. I was not aware that there was a court rule that required me to do so. Because of that I was eliminated. I was eliminated from that matter on what I still perceive as a legal technicality. There was no question that that was the court rule. I did not abide by the court rule; but, as an outsider, those court rules are particularly complicated and particularly difficult to deal with.

When the Law Society approached me this morning and suggested that there were some difficulties with this Bill, they found somebody who had a fair resistance to their ideas. They, in turn, used another example, Madam Speaker, that recently went through the Administrative Appeals Tribunal. They talked about the outcome of that and why legal representation was necessary for a commercial enterprise. In fact, I had been involved in that one as well, assisting in terms of their objection somebody who could not afford legal representation and felt at a significant disadvantage to those who did have legal representation. So they were not likely to win me on that account either.

Madam Speaker, it seems to me that what Mr Wood has proposed in respect of representation before an appeals board is a very good test. Proposed section 282W of the Bill allows people to have representation on these three grounds:

(a) the complexity of the matter to which the proceeding relates;

(b) the age or state of health of the party; or

(c) a lack of command by the party of the English language.

This is probably the first time that something like this has been attempted, certainly in the ACT and probably in Australia. Under these circumstances I think it may well be that we will need to check those tests. It may well be that we will need, in due time, to develop them further; but it seems to me that this is a very reasonable and sensible way to start. I have spent some time thinking about how I could improve them and, at this stage, have not found anything else that I believe ought to be in there. It seems to me that what we are really looking for is a simple process - one that can be dealt with very quickly, and one that can

be dealt with cheaply. If you are talking about dealing cheaply with matters of conflict you simply cannot allow legal representation, because, as soon as you do, cheapness goes out the window. That is why it is, Madam Speaker, that we have before us an appropriate appeals board, and it gives me pleasure to congratulate the Minister on it.

I have prepared a couple of amendments in consultation with Ms Szuty. The Minister was aware of them last week and I believe that he is accepting them. When appointment of the board is completed, Madam Speaker, it will be under scrutiny by this Assembly. Appointments to the board are to be made by instrument. One amendment seeks to make that instrument disallowable. The second amendment which I am foreshadowing is that, when the Executive makes an order under section 256, that order be tabled in the Legislative Assembly within a reasonable period. I think three days is a reasonable period. The order will be made out, so it is just a matter of tabling it. It does not require any further work. Really, it is a matter of ensuring that the Assembly is informed. I think that they are two useful amendments that will help to keep the process open and public.

MR LAMONT (4.27): The Bill that is before us this afternoon, and indeed the amendments, cannot be seen in isolation from the Territory Plan which came into effect on Monday of this week. Nor can it be seen in isolation from the recommendations contained in the Planning, Development and Infrastructure Committee's report on the draft Territory Plan. Nor can it be seen in isolation from the raft of decisions taken by the Government about the Territory Plan which ultimately was given life by its gazettal and formal proclamation.

One of the concerns that I have is the question of the disallowable instrument. To some extent, my objections to Mr Moore's foreshadowed amendment are overcome by, again, one of the recommendations of the PDI Committee. It suggested that the guidelines which are used by the Planning Authority and which underpin the planning regime in the ACT also should be disallowable instruments in this Assembly. To some extent, it would be extremely hard for me, as chair of that committee, to argue this afternoon that Mr Moore's amendment should not be accepted. While it does cause me some concern that the appointments, as a matter of course, become disallowable instruments, I can see where that may fit into the overall framework of the attitude that the Planning, Development and Infrastructure Committee was trying to achieve by the recommendations that it made.

This recommendation allows the community to be assured that, should they not be able to represent themselves, for the reasons outlined by Mr Moore, the chair of the board is able to authorise the attendance of legal representation. Equally, I would presume that the chair would be able to authorise representation by a person from the interpreter service. Equally, the chair would be able to authorise the attendance of a carer or another person to assist with the presentation of an individual's view. So what we are discussing this afternoon, Madam Speaker, is not an instrument which seizes upon any anti-lawyer sentiment. What it does seize upon, in my view, is the atmosphere that we have tried to create by this new Territory Plan, and this new Territory Plan tries to instil within the community a sense of ownership.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

LAND (PLANNING AND ENVIRONMENT) (AMENDMENT) BILL (NO. 4) 1993

[COGNATE BILL:

LAND (PLANNING AND ENVIRONMENT) (CONSEQUENTIAL PROVISIONS) (AMENDMENT) BILL (NO. 2) 1993]

Debate resumed.

MR LAMONT: The general atmosphere about planning that the Territory Plan tries to create, in the view of the Planning, Development and Infrastructure Committee, is enhanced by this appeals mechanism. It is, to use the jargon of the day, a user-friendly appeal system. It also means that we will have a cross-section of people from the community who will be involved in making those ultimate decisions where they are not appealable to the Supreme Court. It is my understanding that there still will be that avenue open to people where they believe that they have been seriously aggrieved by some transgression of law. They still have the right to appeal to the Supreme Court for remedy. So in the total essence of things it does not remove recourse through the courts if people believe that they have been harshly done by at law, or on a point of law, or by some sort of administrative oversight.

I think that we tend to become overly concerned about the entitlement, or what is now a presumption of an unfettered right, to have legal representation in attendance on every occasion where there may be a dispute. That sits at odds with the campaigns being run by the Law Society, as an example, which talk about the necessity of conciliation as a prelude or as a first step where a member of the community feels aggrieved about a particular issue. The Law Society, and, indeed, most of the lawyers that I have spoken to in Canberra, believe that it is absolutely essential that we promote this concept of conciliation as a first step when people consider that they have been aggrieved.

I suppose that to some extent this appeals board takes that one step further. It says to a person, "If you feel aggrieved because the actions of your neighbour are going to interfere with your amenity or your rights, you should come to us and outline what they are; and if, on a fair test, you can satisfy us that you have an argument, we will support you". I believe that it is a fair test for the tests in general are outlined in the Territory Plan. They are outlined by the mechanisms that are being developed, such as the draft guidelines for some particular areas.

That, in my view, is the first step that the Law Society and the legal fraternity are trying to achieve in the wider legal sense in the ACT. The concern being raised by some members of the Law Society about how people are able to be represented by members of the legal profession is answered, I think, by that sort of argument. I noted Mr Kaine's comments about having a concern about this matter. He expressed that concern equally as eloquently during the considerations by the PDI Committee, but I am extremely pleased to see that he believes that time should be allowed to see whether this can work as the Minister has outlined in this legislation.

Madam Speaker, a number of concerns have been raised within the community about the concept of appeal where there is an incursion outside of the development envelope on a block by, say, a garage or a carport. One concern was that there may be delays in dealing with the processing of such applications. There has been some comment on one of the radio programs, the name of which escapes me, on the ABC early in the morning.

Mr Humphries: Mark Giffard?

MR LAMONT: No, I think it is after Mr Giffard. He has this program about revolving doors, anyway; so I am not quite sure. On that program there was some suggestion that this will cause great consternation and great concern. Madam Speaker, to justify the decision that the Planning, Development and Infrastructure Committee made in its recommendations to the Government about the development envelope concept and about the appeals board, I say that we should not accept, as a premise for planning legislation and the Territory Plan, that we have second-rate solutions to those concerns which end up with the neighbour being aggrieved for the next 20 years about what has happened. That, unfortunately, is the situation that applied under the old rules and under the old Territory Plan. The appeals right, if you like, had to be exercised through the Administrative Appeals Tribunal, or, indeed, was not countenanced under the old regime.

What we have here, I believe, is an equitable mechanism. The appeals board provides us with an equitable mechanism to resolve those differences. I, as an applicant to erect a carport or a garage, cannot just go ahead and do it where it may impact upon the amenity of my neighbour for the next 20 or 30 years. I think it is reasonable - - -

Mr Humphries: You cannot put a carport in Deakin. You would lower the neighbourhood.

MR LAMONT: I am not yet in Deakin. Nor am I going to be there, Mr Humphries, much to your chagrin; but never mind. Wherever I do reside finally, we will still enjoy the fun and games of the next election. Madam Speaker, what it will allow is for the rights of my neighbour to be taken into account.

It is important to place on the record again that in a person's life the purchase of their land and home is, in general, the single largest capital investment that they will make.

Mr Kaine: Unless you buy a Maserati.

MR LAMONT: Unless you buy a yacht or a place at Point Piper, and then there may be other things that are bigger; but I will not go into that. Most people treasure the amenity that is provided by that single largest capital investment, and we need to balance their rights to be able to do on that block of land what they like, within reason, and the rights of their neighbour to enjoy their block of land and to ensure that their rights, within reason, are taken into account in the most cost-effective way that we can. I suppose, at the end of the day, that this is not a good thing to say on the public record.

Mr Humphries: Say it anyway.

MR LAMONT: It may be misconstrued, as Mr Humphries generally misconstrues things. What we have attempted to do is to provide the cheapest appeal system and the cheapest way of ensuring that those competing rights are met and are dealt with.

Mr Wood: Cost-effective.

MR LAMONT: Yes, cost-effective. I am sure that a number of lawyers would suggest to me that it is cost-effective to take something off to the Administrative Appeals Tribunal. They may have a justifiable argument, as they see it. What we were charged with, and what this Assembly is charged with, was to try to come up with not just the most cost-efficient but the cheapest and the best, so that you do not end up trading off performance, so that you do not end up trading off the rights of individuals, and so that you do not end up trading off all of those fine concepts that are outlined in the Territory Plan, for the sake of cheapness. I believe that, with this recommendation and the Minister's legislation, we have been able to arrive at a balance that will stand the test of time. In five or six years' time, here in this Assembly, I look forward to being able to review the activities of the appeals board.

Mr De Domenico: Not here; over there.

MR LAMONT: In fact it will not be in this building, as Mr De Domenico points out; it will be in the new premises of the Assembly. In five or six years' time, in the new Assembly premises, I look forward to reviewing the operation. I look forward to reviewing the operation of this body and this activity in 12 months' time.

I take this opportunity to congratulate the Minister and his officers, and indeed the Law Office, on being able to bring forward this legislation in the timeframe in which they have. It has been no mean feat to do so, and to do so in the way that it has occurred. I would like also, in the one minute and 30 seconds left to me, Madam Speaker, to place on the record my best wishes to Mr Harrison from the Law Office, who is currently outposted to DELP, and who, I understand, suffered a heart attack prior to lunch today and has been taken to hospital. I certainly wish him a speedy recovery, and I seek to have passed on to him the best wishes of the members of this Assembly.

MS SZUTY (4.41): Madam Speaker, I welcome the debate on these Bills today, the origin of which began in the deliberations of the Assembly's Planning, Development and Infrastructure Committee on the Territory Plan - a fact that Mr Lamont reminded us of a few minutes ago. It is worth returning to report No. 12 of the Planning Committee and recalling the comments made in the report about the existing, and still current, planning appeals process. I quote from page 16 of report No. 12 of the Planning Committee on the Territory Plan:

> 102. A number of concerns have been raised about the current planning appeals system, following the introduction of new requirements under the Land (Planning and Environment) Act 1991.
>
> 103. Community and environmental groups have talked about the implied costs and formality of the system reducing their ability to use it effectively. Builders are reluctant to use it because of the delays which involve them in onerous penalties associated with holding costs ('justice delayed is justice denied').
>
> 104. It is clear to the Committee that the majority of complaints relate to disagreements which are matters of fact rather than matters of law. People are unhappy with decisions which result in their views being blocked, their privacy reduced or their amenity reduced in other ways. Alternatively, applicants wish to contest a refusal by the Authority which relies on these arguments. The Committee considers that these and related matters - which include urban design controls and the appropriate land use and carparking provision - are best decided by an expert appellate body operating in an informal setting. This would encourage the proponents, objectors and planners to make direct representations rather than requiring them to be represented. It would also facilitate a cheaper and more expeditious process.

I believe, Madam Speaker, that the provisions of these Bills address these issues and concerns effectively. I am especially pleased that the Government has responded promptly to the issues raised by the committee, and that we are therefore debating this legislation at the time that the new Territory Plan is coming into being.

I have only one regret, Madam Speaker, with regard to the Land (Planning and Environment) (Amendment) Bill (No. 4), and that is that the language used to describe this simple, straightforward and more accessible appeals process appears to me to be excessively convoluted and difficult to understand. It seems that, in replacing the Administrative Appeals Tribunal with the Land and Planning Appeals Board, we have kept much of the same language that outlines the functions of that more legal process. In conclusion, Madam Speaker, I do welcome this initiative, and I will reserve further comments for the debate at the detail stage of the consideration of these Bills.

MR HUMPHRIES (4.44): Madam Speaker, I want to make a brief contribution to the debate on these Bills, and in particular to talk about the question of involvement of lawyers. Proposed new section 282W does limit the capacity of a person to obtain legal representation. It is on the basis of complexity of the matter, or the age or state of health of the party, or a lack of command of English by the party that a person might seek the permission of the chairperson of the appeals board to obtain legal representation.

Members, I think, are right, up to a point, to say that limiting the involvement of legal practitioners certainly keeps the cost down. There is no doubt about that. But it has another effect, and that is that sometimes people who do not feel sufficiently confident to appear before a quasi-judicial body, a quasi-judicial tribunal like this appeals board, may not feel able to bring an appeal to this board at all. It may be that a particular individual in the community is not aged, is not facing an unduly complex matter and is not from a non-English-speaking background, but nonetheless may feel insufficiently confident to appear before highly qualified people, in the presence of other people making a contentious argument, and be able to explain his or her case with clarity and to the best advantage. In fact, some people are so terrified by these experiences that they would rather avoid them, in all circumstances, but would feel that the assistance of a lawyer would enable them to adequately appear in those circumstances and make their claim or make their appeal.

I realise that we cannot have both low cost and the regular involvement of lawyers; but, Madam Speaker, we must recognise in dealing with the situation in this form that we do it at some cost; that lawyers are not necessarily an expensive luxury, but sometimes provide the only means whereby a person can have their case properly put to their satisfaction before a tribunal, court or body such as this.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.46), in reply: Madam Speaker, I thank members for their contributions and for their assurances of support. Your support is not surprising because it came out of the committee which most of you belong to. It is to be expected.

Mr Humphries: It is a big committee.

Mr Kaine: The important ones amongst them.

MR WOOD: The important ones, yes. It is a very good committee; may I say that? I am not sure what I need to get through after your next meeting, but it is a good committee. May I join with David Lamont and other members and say how sorry I am that Peter Harrison is not sitting over there as he usually is. We do wish him well. Indeed, he framed the amendments that I will be moving shortly, and he was very instrumental, with others, in producing the legislation generally. I think Mr Lamont, to give him his credit, is unduly modest.

Members interjected.

MR WOOD: I was going to go on to say that Mr Lamont usually is not regarded as being modest. I know from my point of view that Mr Lamont pursued avidly - you agree that he can do that quite effectively - the idea of the planning appeals board and utterly convinced the Government of its desirability. He was a strong advocate and I think the point of view he expressed was entirely legitimate. We see the benefits of that today. I congratulate Mr Lamont and the committee for their work in that respect.

Mr Lamont mentioned some of the outside comment. It is one of my disappointments that such public comment - I use the word "comment" rather than debate - as I have heard is generally very misinformed. For example, the other day, after we had launched this new Territory Plan I saw a so-called expert, and then the TV used film to back up what he was saying, saying, "Look at these garages. We are going to have streets of double garages and the like".

The Territory Plan will prevent that. This same public expert, when I introduced the earlier draft, said, "It is no good, but I will go and read it". We are fairly limited because there is not really much public debate on the Territory Plan. There is lots of comment, and it does concern me that it is very often misinformed and I think it gives people the wrong impression. I think all members here would agree that it is a good plan. Certainly, the views of all members here are much more informed; but that is by the by.

Mr Kaine and Mr Moore commented that we may need to review the operation in due course. Yes, certainly. We never take the view that everything is going to be perfect. I think it will work well - I really do - but obviously we will need to review it. Mr Humphries, not surprisingly, expressed a reservation on that legal representation side of things. But, Mr Humphries, there is the other side of the coin, in that if an ordinary citizen bowls up and, as could happen, he is confounded by a highly skilled lawyer or even a QC, you have a one-sided argument, or the appearance of it. I should always hope that the facts emerge; but, whatever happens, you might have that problem. We think we have done the best to smooth it out, to make it - to use that overused term - a level playing field. I think this is the best possible outcome. I indicate to those members who spoke that we will look to see that it is improved, should that be necessary.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clauses 1 to 19, by leave, taken together, and agreed to.

Proposed new clause 19A

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.52): Madam Speaker, I move:

Page 7, line 25, insert the following new clause:

Substitution

19A. Section 249 of the Principal Act is repealed and the following section substituted:

Approval - when takes effect

"249. The approval of an application by the Minister, or by the Executive under section 240 or 241, takes effect -

(a) if no objection to the application has been made under section 237 and whether or not a condition is imposed on the approval - on the day on which the approval is given;

(b) if an objection to the application has been made under section 237 and no application is made to the Appeals Board for a review of the decision within 28 days after the date of the decision - on the day following the expiration of that period of 28 days; or

(c) if application is made to the Appeals Board for a review of the decision to approve the application - on the day on which the Appeals Board decision affirming or varying the decision is made.".

I present the supplementary explanatory memorandum which also has been circulated. Madam Speaker, I will speak to this amendment and, as I do, I will comment on various other amendments that are coming up. The first amendment we are dealing with relates to the garage problem which Mr Lamont discussed and which was the subject last week of a couple of questions from Mr Kaine to me. I indicated to Mr Kaine at that time that I would look at the problem and this, I believe, is the solution.

The Land (Planning and Environment) Act 1991 provides for the control of certain land use activities. This is achieved through a controlled activity process. A person is required to make an application and any person affected by the activity can lodge an objection. After considering all the issues a decision is subsequently made. Where an application to conduct a controlled activity is approved, the decision does not take effect until at least 28 days after the approval is given. That is the period within which a person may apply to the Land and Planning Appeals Board for a review of the decision.

Such a situation is inappropriate where no objections to the application have been received and the applicant accepts the decision. Firstly, a person who did not object to an application cannot appeal the decision unless they can convince the appeals board that they were unable to object to the making of the decision. Secondly, if the applicant accepts the decision and such conditions that may be imposed, why should they not be able to act on the decision immediately? This proposed amendment would not remove the right of appeal to the appeals board; nor does it affect the situation where the appeals board is asked to review the decision. Rather, where the applicant accepts the decision and there have been no objections to the application, the decision will come into effect immediately. There will be none of that further delay.

The proposed amendment No. 2 amends clause 22. The reference to the Executive should be to the Registrar. Further changes are proposed - - -

MADAM SPEAKER: Mr Wood, we are doing them one at a time, are we not?

MR WOOD: I was talking generally to them all.

MADAM SPEAKER: You will need leave to do that, Mr Wood.

MR WOOD: I seek leave.

Leave granted.

Mr Humphries: His mind is wandering.

Mr Moore: Yes, wander wherever you like.

MR WOOD: Well, everybody else does; why should not I? Further changes are proposed which result from discussions with Mr Moore and Ms Szuty about the amendment Bill. The appeals board will have the power to strike out a party to a hearing. In this case, if the person who lodges an appeal fails to appear at a preliminary conference or at a hearing, the appeals board may dismiss the application without proceeding to review the decision. If a party to a proceeding fails to appear, the appeals board may direct that the person who failed to appear cease to be a party to the proceeding. It is a matter for the appeals board to decide whether or not a party to a proceeding or an application should be dismissed. In reaching its decision the appeals board should, as a matter of course, consider any submissions that a party affected may make as to their non-appearance. Amendment No. 3 clarifies this. Amendment No. 4 will provide that the secretary of the department, rather than the Head of Administration, will be the person to whom a notice from the appeals board will be sent. You have the explanatory memorandum.

Proposed new clause agreed to.

Clause 20

MR MOORE (4.56): I move:

> Page 8, paragraph (b), line 21, proposed new subsection 256(4E), after proposed new subsection (4D), insert the following subsection:
>
> "(4E) An order under subsection (4D) shall be tabled in the Legislative Assembly within 3 sitting days after the date of the order.".

This is a simple exercise. When the Executive makes an order under this section, such an order must be tabled in the Assembly. It is in the interests of openness and so that the Assembly knows what is going on.

Amendment agreed to.

Clause, as amended, agreed to.

Clause 21 agreed to.

Clause 22

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

> Page 9, paragraph (c), line 17, omit "Executive", substitute "Registrar".

Clause, as amended, agreed to.

Clauses 23 to 27, by leave, taken together, and agreed to.

Clause 28

MR MOORE (4.58): I move:

> Page 12, line 33, proposed new section 282C, after proposed new subsection 282C(4), insert the following subsections:
>
> "(5) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989.*
>
> "(6) Paragraph 6(1)(c) and subsections 6(7), (7A) and (7B) of the *Subordinate Laws Act 1989* apply to an instrument under subsection (1) as if a reference in each of those provisions to 15 sitting days were a reference to 6 sitting days.".

Madam Speaker, I draw attention to the change in this amendment which makes the appointment of members a disallowable instrument, but changes the normal 15 sitting days to six sitting days. That would mean that it goes across two sitting sessions, according to our current system. I hope that that is appropriate for members.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.58): Madam Speaker, I am not absolutely convinced about this amendment, as I think Mr Moore understands. However, I have every confidence that the names I ultimately present will be accepted readily. On another occasion we probably will have a fuller debate about this procedure. Mr Moore has indicated that at some stage or other, perhaps in three or four or five years' time, if he is still here, he will bring down a Bill somewhat related to this.

Mr Moore: No; I suggest that it might be the next sitting, Minister. The next sitting, I suspect.

MR WOOD: I might add that this presents me with an immediate problem. Mr Moore or Mr Lamont - I think it was one of them - indicated how rapidly we had moved to adopt the PDI Committee's report and to bring in this legislation. We have been moving during that time to find the members of the appeals board, and that takes a deal of time. It means now, if we go through all procedures, that it will be 9 December before we can have those names finally approved. I may come back to members and see how best we might facilitate that, if there is agreement. There may be something we can do to see that that is expedited, without getting away at all from the spirit of the amendment.

Amendment agreed to.

Amendments (by **Mr Wood**), by leave, agreed to:

Page 26, line 5, proposed new section 282ZF, after proposed new subsection 282ZF(2), insert the following subsections:

"(3) The Appeals Board shall not exercise its powers under subsection (2) in relation to a proceeding unless it has considered any submissions made to it by a party to the proceeding in relation to the exercise of those powers.

"(4) The Appeals Board is not required to seek submissions in relation to any exercise of its powers under subsection (3).".

Page 31, lines 29 and 30, proposed new subsection 282ZU(1), omit all the words after "given" (last occurring), substitute "to the Secretary to the Department of the Environment, Land and Planning".

Page 31, line 31, proposed new subsection 282ZU(2), omit "Head of Administration", substitute "Secretary to the Department of the Environment, Land and Planning".

Clause, as amended, agreed to.

Clause 29 agreed to.

Schedule

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (5.00): Madam Speaker, I move:

Page 33, proposed amendments of subsections 249(1) and (2), omit the amendments.

The carriage of our first amendment today has made irrelevant the proposed further amendments to section 249 contained in the schedule.

Amendment agreed to.

Schedule, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

LAND (PLANNING AND ENVIRONMENT) (CONSEQUENTIAL PROVISIONS) (AMENDMENT) BILL (NO. 2) 1993

Debate resumed from 12 October 1993, on motion by **Mr Wood**:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ADJOURNMENT

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

That the Assembly do now adjourn.

Assembly adjourned at 5.03 pm