



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

8 December 1993

Wednesday, 8 December 1993

Death of Mrs H.M. Thwaites	4351
Street art	4354
Children's Services (Amendment) Bill 1993	4378
Questions without notice:	
ACTTAB - contract with VITAB Ltd	4382
Visiting medical officers dispute - response to advertisements	4384
ACTTAB - contract with VITAB Ltd.....	4388
Education budget cuts	4388
Teachers - separation packages	4389
Perfumed glue	4389
Hepatitis	4390
Mount Stromlo Observatory	4390
Government Service - home-garaged vehicles	4391
Teachers - separation packages	4391
Adelaide Avenue roadworks	4392
Personal explanations	4393
Public Accounts - standing committee	4396
Papers	4397
Public transport sector (Matter of public importance)	4398
Food (Amendment) Bill (No 2) 1993	4414
Supreme Court (Amendment) Bill (No 2) 1993	4414
Air Pollution (Amendment) Bill 1993	4422
Adjournment	4424

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

DEATH OF MRS H.M. THWAITES

MR MOORE: I move:

That the Assembly expresses its deep regret at the death of Mrs Honor Mary Thwaites, who made a significant contribution to the Australian Capital Territory through her work with Remembrance Park on Mount Ainslie, and tenders its profound sympathy to her widower and family in their bereavement.

It is with great sorrow that I rise on this motion of condolence for Honor Thwaites, who died of cancer at her home on Wednesday, 24 November of this year. I am very proud indeed to have counted as friends Honor and her husband, Michael, who is with us in the gallery today. That was a friendship that my wife, Helen, and I valued extremely highly because it was one of those relationships where people were able to be encouraging on the one hand but critical on the other without any implication that a critical comment was to be taken as a personal affront.

Honor was a well-educated person who held an honours degree in languages. Even in this area she was well ahead of her time. Her qualifications reflected her intelligent and thoughtful approach to life and issues which had an impact on our community. In dealing with Honor, there was no doubt that this was a person of keen intellect who was widely read and who had developed a strong philosophy of life.

In Canberra, Honor Thwaites was probably best known as a Park Carer, particularly for her work in establishing and maintaining Remembrance Park, the park which is behind the War Memorial on Mount Ainslie. It was her work in that area which formed the basis of most of our understanding of Honor and her dedication to the environment. Her attitude to the environment was not limited simply to Park Care and nature but also extended to the living environment, which included the way people interrelate with nature and each other.

I now wish to relate some of the fond memories I have of my relationship with Honor. How many times, I wonder, did the telephone in my office or at my home ring and I found Honor on the line expressing her view about something I had just done or something I had not done? For all politicians this can be a nuisance, but Honor had a way of both complimenting and being critical which made such comments extremely useful and helpful. When Honor expressed her opinion, it was never a shallow "I feel" or "You ought to"; it was always supported by arguments which either required some effort to refute or, more often, were basically irrefutable.

I recall earlier this year when she invited my wife and me to morning tea with the Reverend John Smith, the motorcycle minister. The discussion we had, as you might well imagine, was lively and critical, but throughout Honor maintained a friendly and caring atmosphere which allowed us to explore each other's ideas and motivations. Recalling times like these highlights the great contribution that Honor made in my life, particularly since I became involved in politics.

In 1989, when I first became involved in politics, Honor and Michael were encouraging and assisting, as they saw the opportunity for a better Canberra for all Canberrans. As late as a few months ago, Honor was expressing her concern for the appalling situation at the Campbell shops. It was a concern not just about the relationship between landlord and tenant but also about the relationship of the people to their local shopping centre and the important role it played in the community.

Most fondly, I remember many a Sunday morning when, on their way home from St John's, Honor and Michael would drop in for a cup of tea. The Sunday morning mess in the house and the kids climbing everywhere with their neighbourhood friends did not seem to worry them at all. No wonder. They had four children themselves and a string of grandchildren. These Sunday morning visits assist me to recall the warmth and the kindness that were part and parcel of Honor Mary Thwaites.

In conclusion, this condolence motion is an appropriate chance to pay our respects to a woman who was an active environmentalist long before the word was even coined.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning): Madam Speaker, there is a fairly limited number of citizens in Canberra of long standing who have made extraordinary contributions to life in the ACT. Honor Thwaites was one of those. She was truly a person who helped enormously to make Canberra the marvellous place that it is. She did that in physical terms - for example, her attention to Park Care, her founding of Park Care; and she did it in terms of spirit - her personality, her energy, her drive. That sort of person is too rare; nevertheless, a few people like that have helped to make Canberra what it is today.

Honor Thwaites was clearly an activist. If there was a cause in which she had a belief, as Mr Moore says, she did something. She was never passive. There is a long record of her activity in a whole range of areas. I know of her work around St John's Church. As Environment Minister, I am pleased to acknowledge the work she did in this area with her husband.

Her interest, her concern, her activity resulted in the protection of the area behind the War Memorial on Mount Ainslie - Remembrance Park, which was gazetted in 1978. The formal gazettal of Remembrance Park coincided with the sixtieth anniversary of Armistice Day. Mrs Thwaites intended that it should be a physical reminder of the contribution of all Australian defence personnel to their country. Honor Thwaites continued her involvement with Remembrance Park from the 1970s through to her death. She was a very early supporter of bush regeneration.

She was the first Park Carer and rallied to that cause many others who now make that body of people so significant in the ACT. She was successful in gaining grant money during the bicentennial year to develop a trail and a leaflet to encourage people to visit the Remembrance Nature Park. Let me, as Minister for the Environment, acknowledge the work she did in that area. But the Park Care work she initiated is happening not just at Remembrance Park but all over Canberra.

Madam Speaker, I join Mr Moore in expressing sorrow, grief and sympathy to the family; but, in supporting this motion, let me finish with an acknowledgment of joy for the celebration - and that is what it is - of a long and fruitful life.

MRS CARNELL (Leader of the Opposition): Honor Thwaites certainly had a long involvement in all sorts of issues, whether they be moral, human or environmental issues. In fact, her involvement started very early, when in the 1930s she became involved in the Oxford Movement, which of course became the Moral Rearmament Movement. I understand that one of her sons is still involved in that movement in Sydney.

Honor Thwaites has been described to me by many people, among them some of the tenants at the Campbell shops, as having a very direct manner and always being straight to the point. I think all of us here in the Assembly whom Honor approached on various things from time to time would back that up. She has been described as firm and upright, with a strong commitment to whatever she did. I think we would all like to be remembered in that way. She was certainly admired by everybody who knew her.

Her expertise was not confined to the sorts of issues that have been mentioned but extended to the academic arena as well. She helped compile the *Australian Hymn Book*, which I understand acknowledges her contribution, especially in the area of translating German hymns into English. With her husband, Michael - who is in the gallery, as Mr Moore said - she wrote the beautiful hymn "For Australia", which was sung as the bicentennial hymn in the 1988 Australia Day ceremony in Sydney and, I understand, at the new Parliament House. I think her commitment to the environment and to people generally can be seen in the first verse of that hymn, which I would like to quote:

Lord	of	earth	and	all	creation,
let	your	love	possess	our	land;
wealth,	and	freedom,	far	horizons,	
mountain,		forest,	shining	sand:	
may	we	share,	in	faith	and
gifts	unmeasured	from your hand.			

That is a wonderful verse, and the rest of the hymn is as nice. I think everybody should read it at some stage. Mr Moore and Mr Wood have already spoken about Honor's commitment to Remembrance Nature Park on the slopes of Mount Ainslie. All Canberrans would share their sentiments on that. Honor Thwaites will be sadly missed, I am sure, by her husband, Michael, and their children, one of whom, I understand, is the High Commissioner to Zimbabwe. She certainly left a lot for Canberra and for her family. The Liberal Party and I endorse the comments of Mr Wood and Mr Moore.

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

STREET ART

MS SZUTY (10.44): Madam Speaker, I move:

That

- (1) the Government establish a co-ordination unit to facilitate, oversee and direct the use of appropriate identified public assets, for example, bus shelters, underpasses, community halls and centres, public toilet blocks and building walls for use by street artists, including aerosol artists;
- (2) extensive community consultation be undertaken in respect of the public assets identified for decoration and include discussion with youth workers and relevant community centres; and
- (3) the process referred to be completed by the end of semester 2 of the 1994 school year to enable the first artworks to be co-ordinated and undertaken over the 1994 mid year school vacation.

Madam Speaker, I had the unenviable task, when I last discussed the topic of street art, of following the Chief Minister's 1992 budget speech with a matter of public importance. The response I received from my fellow members at that time showed that they were indeed engrossed in a matter of public importance, the budget, and had possibly not fully comprehended my motives in suggesting that more legal space be made available to aerosol artists. The response was fairly negative and focused on the criminality of graffiti, the need to stop people from defacing other people's property and road signs, and the personal dislike of some members for the graffiti art-style.

Luckily, Madam Speaker, I was greeted with more enthusiasm from the general community, and I have received enough support for my earlier position to put forward what I feel is a worthwhile motion. Street art is the practice of communicating in an artistic fashion in a public place, the artwork adorning a public asset. To me, such public assets include bus-shelters, public toilets, building walls, community halls, underpasses and suitably large open and safe concrete stormwater drains. We have examples of this type of art already in bus-shelters, and there is some artwork on the walls of skateboard ramps and other areas where young people can see it.

Street art's main purpose is to communicate - a basic need for all human beings. Street art, like so-called "high art", is an artistic means of communication. I do not exclude the more orthodox art forms from my definition. I feel that people who feel a need to claim a public asset by decorating it should be able to nominate or ask for permission to carry out their own street art on that public asset. This includes people who are elderly or who have disabilities, or any other member of a group within the community - - -

Mr Connolly: Not too many elderly people are out there with their spray cans.

MS SZUTY: Perhaps they have not become aware of the opportunities that might be available to them, Mr Connolly. Aerosol artists are people, usually young people, who express their artistic skills and who communicate to their peers through the medium of spray paint. There is a particular subculture that utilises stylised writing forms as part of its artistic language, and I have formed the opinion that some of my colleagues in this place find this work less than appealing to their own artistic tastes. May I point out that Salvador Dali, Francis Bacon and *Blue Poles* are also not universally appreciated, and that Michelangelo once adorned the walls of his favourite restaurant with a small charcoal sketch. Luckily he was famous, so the carabinieri were not summoned.

Madam Speaker, members may well ask what aerosol artists do when they go in search of a "canvas" for their next work of art. At present they can decide to operate outside the law and "bomb" buildings or other structures. These works are done hurriedly, usually in darkness, and young people are unable to take simple precautions such as avoiding the spray drift from the aerosol cans so that they are not breathing in toxic fumes. If, however, aerosol artists wish to do legal artworks, the process of gaining access to legal space can be a difficult one. One option is the Chief Minister's youth affairs unit, which funds some very innovative projects under the impact grants program. However, artists need also to identify and obtain permission to decorate their chosen space. Most obviously, this leads them to ACTION, as ACTION participates in a competition annually, enabling many school and community groups and individuals to be involved in painting and decorating bus-shelters. Unfortunately, to my mind, this activity results in too few bus-shelters being painted. I would prefer to see an annual painting competition involving all concrete bus-shelters able to be painted.

On a positive note, I was delighted on Monday to attend the presentation of awards and merit certificates for painting bus-shelters. I note the increasing participation in the competition by the Australian National Gallery, which for the benefit of people involved in the project now holds preliminary workshops before the shelters are painted. Other opportunities for painting that young people may see, however, include a number of community and privately owned buildings and facilities, underpasses, public toilet blocks, building walls, community halls and centres, including youth centres. However, these spaces are not easily accessible and require people finding their way through the Department of Urban Services and/or Community Services, and individually arguing their cases for the decoration of appropriate space.

I would also like to see the Arts and Special Events Unit of the Minister for the Environment, Land and Planning involved in determining how and in what way public buildings and facilities might be decorated. The direct involvement of departmental officers with a background in the arts would, I am sure, make a useful contribution in determining the quality and style of the finished product. Fortunately, in some cases aerosol artists have been able to approach lessees of particular buildings who are happy for their premises to be decorated. I know of two artists who gained a commission to paint a local supermarket wall. However, they were especially dedicated and were probably lucky in finding lessees willing to participate in the project.

I have raised a series of scenarios which even yet do not fully address the difficulties which confront especially young artists when they approach adults in authority for permission to legally practise their chosen form of art. There is the probability of young people needing the permission of a variety of people before they paint, and even then police officers may not be aware that artists are painting legal works and may question and interrupt work in progress. Then again there is the question of community prejudice against street art, based on its bold and often alien imagery.

There certainly is a need for coordination of all the aspects of aerosol art. Artists need to be given a clear idea of where they are allowed to paint, what conditions are set for each of the assets available for painting, what preparation is needed for each type of asset, and where they can apply for funding or sponsorship, if needed. It is also important that the police be kept informed of what works are in progress, to ensure that young people going about their business legally are not mistaken for "bombers". This art form is not going to go away: It is thriving and providing an artistic outlet for many talented young people. What a coordination unit would do would be to pick up on a growing phenomenon, channel the energies of young people who have artistic talent, and lessen the frustration - and therefore the amount of illegal "bombing" around town - by making the process of finding legal spaces simpler and more open.

You will note, Madam Speaker, that the second paragraph of my motion refers to community consultation. I feel that the community should be asked to identify those assets that it feels should be left in pristine condition. Thinking laterally by narrowing the assets which need constant cleaning, we could possibly afford anti-graffiti paint on those assets, allowing the others to be decorated, and to celebrate what it is to be artistic and Canberran. I feel that consultation should commence with an identification of the assets involved and discussion with the key interest groups. In the case of the younger artists, these include youth workers, community centres and schools. There will be some people who feel that their "undecorated" Canberra is at risk; but, as I will argue in more detail shortly, I feel that it is better to have decorated, rather than defaced, public assets.

I feel that it is important that we set ourselves a target for achieving our aims in such an exercise. I am happy to provide as much information as I have at my disposal to help the coordinating unit, including the name and contact number of the police officer who coordinated a spray art project in Brisbane, the contact names and numbers for the Gosnells Council in Western Australia, which runs a spray art program, and articles on the other successful programs that celebrate public art. By establishing a coordinating unit now, and getting the identification of assets under way as a priority, we give a signal to our street artists that the ACT Legislative Assembly is responsive to their needs.

I would now like to explore my reasons for believing that adopting this motion could have a positive effect on the youth of Canberra in particular. I would like to quote from a paper delivered recently to the Queensland Police Department and the Queensland Government on a project entitled "the legal street art project". The project was conducted between August 1991 and August 1992 in an effort to combat a growing problem in Brisbane - illegal street art, graffiti. Writers were not only defacing public assets but also putting their lives at risk by such behaviours as hanging onto the outside of trains while they were moving and doing "pieces" in railway tunnels, where there are not only moving trains but also high voltage wires.

Based on experience interstate and overseas, the Brisbane police force's community policing branch set up a scheme where:

Known and suspected graffiti artists do their art on legal, approved walls with legally obtained paint, so that this youth will be able to "do their own thing" in a controlled environment, where members of responsible agencies would be present during the formation, preparation and execution of their artwork.

That is from page 11 of *Legal Street Art*. The stated main objective of the project was to:

develop the Legal Street Art Program to such an extent that youth involved in illegal graffiti and the associated subculture would prefer to participate in organised, legal, controlled activities.

The evaluation report for the project shows that the enthusiasm of young people was extraordinary. Six youths were invited to participate in painting a legal wall in Petrie in suburban Brisbane; 62 young people turned up. The project had 810 young people participate over its short operating life, with 195 young people officially registered as artists with the legal street art project.

The statistics on recidivism and offences are nothing short of astounding. Offences against Queensland Rail decreased by 411 incidents over a nine-month period. This was a 22.7 per cent decrease. Considering that graffiti is only one of the plethora of activities that are classified as vandalism or wilful damage, this is a good result. Recidivism among registered graffiti artists for graffiti offences was 3.58 per cent; that is, of all the participants who had been charged with graffiti offences prior to participating in the project, less than 4 per cent returned to participating in illegal graffiti offences.

The project coordinator cites a cost of \$32 per half-metre to clean graffiti from trains in 1991, while in the same year Marrickville Council in Sydney spent \$42,000 on graffiti removal. Marrickville ran its own legal art program, using its council ovals, site caravans and other prominent walls in the municipality for works by street artists. The program was very successful, and at least one neighbouring council proposed a joint project along the same lines. I have no information on the current costs of cleaning graffiti from assets in Canberra, but I can only surmise from information given by the Minister in response to earlier questions about the removal of graffiti from public places that it is a cost burden on the ACT taxpayer.

There is also the question of the effectiveness of the current ways of dealing with graffiti crimes. In the ACT these come under the Crimes Act and are classified as criminal damage. In the Brisbane area the clear-up rate for graffiti offences is 14.9 per cent, and that does not include Queensland Rail. The report's author states that the success rate of clear-ups would be "significantly reduced" if Queensland Rail figures were included.

Members may well ask, Madam Speaker, "How does this apply in the nation's capital?". Young people in Canberra have a lot in common with young people in Brisbane. In fact, two of the leading lights of the graffiti subculture in Brisbane are ex-Canberrans. Bill and Jamie Moulton, who lived in Canberra before moving to Brisbane, were graffiti "bombers" before they were caught.

They have participated in the legal street art project and now produce one of the two major magazines of the graffiti culture, called *HYPE*. They are well known in street art circles in Canberra and interstate and have turned a formerly illegal activity into a career. To quote Bill Moulton:

We only did it because we'd always been artistic and there was no other way.

That is a quote from the *Sydney Morning Herald* of 14 July 1992, page 6. Canberra does have a culture of graffiti and street art "writers". Many have gained "legals" for payment and have applied for impact grants for assistance in painting some of the few "legal" walls that are available in the ACT, including bus interchanges, and for chronicling the activities nationally of graffiti practitioners.

There is a problem, as there was in Brisbane, with illegal graffiti activities. There are more young people interested in street art than is recognised in the amount of space currently being set aside. There will probably be other sectors of the community interested in claiming some public asset of their own. (*Extension of time granted*) The evaluation report of the legal street art project states:

From international evidence it has been found that the projects which help to reduce vandalism are those which tend to have a strong creative element and give participants a sense of ownership. Experience in a number of countries shows that preventing or minimising graffiti seems to depend on the right formula, or package of measures - police or railway police presence, electronic surveillance, quick and effective clean-ups, education campaigns, restrictions on the weapons or tools used, and programs and activities that prove more attractive to young people than "bombing" ...

We in Canberra probably have a better starting point than Brisbane police had when they initiated the legal street art project. We do not have the social imperative of responding to young people being killed in pursuit of their chosen art form. We do, however, have a common element in the subculture that sometimes goes with illegal street art. I again quote from the legal street art project report:

The polarisation of the debate about graffitiists growth into dangerous criminals versus high spirited kids with a love of public art may be preventing a serious examination of graffiti as a symptom of extensive alienation, hostility and social malaise on the part of a growing number of youngsters. Children have a tendency to stick together against the adult world, but most of them grow out of it and take their places in adult society. Kids who join graffiti gangs and become absorbed in the graffiti sub-culture may tend to stay outside normal society. At best, this will cut them off from many of the benefits of participation in their community; at worst, it could lock them into a life of crime. The thesis of Mr Kolesnik may give some insight into the socialisation process of graffiti youth.

Mr Kolesnik was undertaking course work for his master's degree in social planning and development at the University of Queensland, and his thesis provides some very interesting reading. Six other university students studied the legal street art program as part of their studies, so we are not discussing something in abstract terms. Graffiti is becoming recognised as a legitimate form of expression. There are problems associated with this type of forward thinking move. The legal street art evaluation report outlines what the weaknesses of the programs were. One of the most interesting was:

The main proponents of the illegal graffiti scene remained the elder youths, aged up to 22 years, who were causing as much damage in their small numbers as the "toys" (beginners) were causing en masse. The youth who failed to change their ways were generally the older ones and had been offending for a lengthy period of time.

The report acknowledges that culture change was the most difficult target for the team to achieve and in some cases they failed. The case of the older graffiti artists is an example of this. But the results show that the project was having a huge impact. I am confident, as the report's author is confident, that over time a more significant and long-term turnaround can be achieved. The main threats to the project, as outlined by its coordinator, are:

... the innate resistance to change demonstrated by the attitude of major stakeholders. Whilst there are some offenders operating in the rail system, Queensland Railways seems unlikely to embrace this type of project. It appears that there exists a mistaken belief within QR that a proactive project, operating in isolation, can solve all graffiti offences and when it does not, it is discredited.

The important point to pick up here is the need for a range of strategies to combat illegal graffiti. Providing legal space gives one outlet, but along with that legality goes responsibility. Therefore, what needs to happen is adequate surveillance, rapid clean-up of illegal graffiti and prosecution of offenders who continue to work outside the legal system. No-one can claim that illegal graffiti is all about artistic merit; some is sheer vandalism, and some vandalism is done by graffiti artists - that is reality. But we can do much good and in the process go some way to lessening the problem of illegal graffiti by adopting a proactive approach to the question of street art, aerosol art and legal graffiti writing.

There is also one element listed as a threat in the legal street art project report which I can see as having a positive impact, as long as there is adequate training and support for staff. That is the close and frequent contact between the coordinators and young people who may come from dysfunctional backgrounds. There will also be some young people who have previously been known to authorities only through their behaviour as offenders. I see a magnificent opportunity to expand the network of field workers who provide young people with support, advice, counselling and role models in a non-threatening way, concentrating on an artistic activity. This could be undertaken by existing youth workers. The report states:

The project provides opportunities for other agencies to access the youth in a continuing fashion in a manner they could not do before.

This does not mean people checking up on young people at risk. The avenue is provided for youth workers, people concerned with youth issues, and parents of youth to get involved in the project and have contact with these young people in a non-threatening environment which focuses on the young people's talents, not their difficulties. The issue of ownership is an important one.

The aforementioned Mr Kolesnik recommends from his research that authorities encourage young people to own street art projects; that schools encourage the idea of community pride and spirit; and that there be encouragement of community ownership of all public places and property. We see the need for young people to have their own facilities in hospitals - the adolescent ward, for example - and the Government has given a commitment to work towards that goal. We established secondary colleges in recognition of the special place young people have in this community. We are moving towards a more fluid model of high school organisation in recognition that the current model of high schools is not giving students as they pass through adolescence enough support during these four important years of their education.

Ownership by those in the community of community assets is becoming a major issue in Canberra. We should address the issue of the need for the community to own assets by their actions - assets that belong to the whole community. There is sufficient open space, sufficient public assets and sufficient outlets for orthodox artwork to allow us as a community to act generously in relation to graffiti art, street art and community ownership of public assets. What is wrong with a group of young people decorating, say, an underpass near their school, or a youth centre? As a corollary, elderly residents of a retirement village may also want to decorate their local bus-shelter, as the local playgroup may want to decorate a wall of their centre. Why do we seem to insist on blank walls, unbroken brick facades, and uniformly coloured buildings and structures? Does anyone really believe that harmony and community spirit are expressed through uniformity?

Madam Speaker, as my time has expired, I seek leave to speak again.

Leave granted.

MS SZUTY: The acceptance of this motion by the Assembly will not necessarily involve the expenditure of significant amounts of government money. It is more an issue of facilitating quick and easy access to community owned assets by young people and others interested in street art. I commend the motion to the Assembly.

MR STEVENSON (11.07): Street art can be wonderful or terrible. It runs the full gamut. The decision today would be easy if we could see all the proposals for murals to go up in various places around Canberra. Then we could say that they were great or that they were terrible.

Recently I was at the ACTION bus-shelter awards. I must admit that the murals I saw there were in the wonderful category. I particularly liked the one with the dolphin. We should understand that not all photographs of bus-shelter murals were taken along on the day. Many did not quite make it, and the reason might be obvious if we look at the other ones. This is the problem with people painting murals on public assets. It can certainly develop creativity and encourage community involvement. There is no doubt that it can reduce graffiti and it

can beautify and bring joy to people. It can also increase the uniqueness of a community, of an area, and increase the potential of a place as a tourist attraction. There is no doubt about that. The question remains: Will it?

I move the following amendment to the motion:

After paragraph (1), insert the following paragraph:

"(1A) the co-ordination unit ensure that proposed murals are submitted for approval before acceptance and that the themes and content are non-political."

Approval is logical and obvious and is no doubt already a requirement. The themes and content should be non-political, because we have some murals around Canberra that are political, and when you start putting up - - -

Ms Ellis: What is wrong with that?

MR STEVENSON: Someone said, "What is wrong with that?". Let me answer the question very simply. If you agree with the political ideology, nothing; if you do not, everything. That is the problem and that is why the issue causes division. There should be - - -

Mr Connolly: All politics is art, and art is politics.

MR STEVENSON: One could say that a picture of a landscape could remind people of pink bits or developments that went ahead without community consultation. But, without going into listing 300 different things with parameters, I think the term "non-political" covers it for most people.

Mr Berry: A beautiful set of smiling teeth that demonstrate what fluoride has done for the community.

MR STEVENSON: In other words, as Mr Berry said, one could suggest that a picture of a smiling face might suggest fluoridation, but I would not suggest that for a second. I would say that a picture of a smiling face with teeth that were mottled would do more to suggest fluoridation. It would be a political statement. Such political statements should not be allowed.

Mr Berry: There is nothing wrong with that. No-one would believe you, because they all have smiling teeth at home.

MR STEVENSON: I missed that, Mr Berry.

Mr Berry: They all have kids at home with big strong teeth in their heads as a result of it.

MR STEVENSON: Fluoride does not strengthen teeth, Mr Berry. Do a little bit more research.

MADAM SPEAKER: Mr Stevenson, do not get distracted.

MR STEVENSON: I never get distracted by what Mr Berry says. It is not possible. I have long been a supporter of graffiti and street murals. I remember many years ago when the Parramatta rugby league team were buying

up all the best players around the place. On our local railway station there was a Christian sign saying, "Jesus is coming", and underneath some wag had written, "Parramatta will get him". I have been suggesting to people for a long time, actually ever since the Assembly started, that the Assembly building be decorated with appropriate graffiti. I was even prepared to suggest some slogans. For some time I have also been recommending to ACTION that there should be an Assembly bus-shelter; that we, the 17 members of this Assembly, should have the opportunity to paint our own bus-shelter. We could have - - -

Mr Connolly: Dennis, yours was the one in Yarralumla that was abolished.

MR STEVENSON: Well said. I was thinking of putting that sort of thing on the Assembly building. The Assembly bus-shelter could show people being consulted. It could show people voting at referendums. It could show citizens speaking before the Assembly. It could show members seeing their constituents. It could show taxes being reduced. We could title it "Shangri-la". If the motion gets up, I think it is important, first of all, that we make sure that the proposals are submitted for approval and, secondly, that they certainly have non-political themes.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.13): Madam Speaker, the thing about being in government is that you basically have to set priorities for expenditure. The motion that has been moved by Ms Szuty will be opposed by the Government because frankly we do not see this as a sensible priority for expenditure. I was pleased that the Assembly granted Ms Szuty an extension of time and then gave her leave to further extend her time beyond the extension of time, because the very last words that she was uttering before the extension were "and this may not really involve much expenditure".

In the first extension of time she had referred to expanding the network of field workers to be out and around Canberra coordinating this art, working with this art. She said that existing youth workers could do that. Madam Speaker, I deal with workers in the community sector, and I can assure you that they do not have a lot of time to be taking on additional tasks. So the thought of our existing network of social welfare field workers having time on their hands to run around coordinating the graffiti art exercise is just not on. Within ACTION we run a program of community art - the bus-shelter program. It is a very good program. It has been running for many years. It has had significant commendations from around Australia. But it has a cost; it needs to be tightly regulated. It involves a quite significant resource commitment from ACTION officials; it involves a quite significant use of education staff; it involves vetting designs and all the rest of it.

Mr Stevenson urges that if we are going to do this we will have to vet all designs - not only vet them, but censor them. According to Mr Stevenson, we cannot have a political design. What is a political design? Mr Stevenson said that he particularly liked the bus-shelter with the dolphin on it. It was indeed a very nice bus-shelter. Mr Stevenson, the dolphin has basically been adopted as a symbol of the environmental movement, indeed to the point where commercial advertisers now whack dolphins on their products to indicate that they are environmentally safe. Mr Stevenson, the dolphin painting was basically an

environmental message. Is that political? Maybe you would say, "No, that is acceptable". But there are bus-shelters featuring themes such as "Let us not enlarge the hole in the ozone layer". Mr Stevenson, is the claim that there is a hole in the ozone layer a political statement? You have been known to come into this chamber - - -

Mr Stevenson: It certainly is.

MR CONNOLLY: Indeed. That is my point exactly. One person's proposition of a community theme is another person's political statement. So our censorship panel that we build up on top of our vetting panel on top of our network of field workers and coordinators is all going to have significant cost. I am going to have to find those people from somewhere within the Department of Urban Services.

Mr Westende has been pursuing me with some vigour, arguing that perhaps we do not have enough resources in the Supply and Tender Agency. We have one person there going flat out, and there are other resources available. Do I say, "I bow to the wishes of the Assembly"? Obviously, if the Assembly passes this motion, we will do this. Do we take the person away from the Supply and Tender Agency and say, "Sorry, Mrs Community, but we have been required to set up a graffiti art coordination unit"? Would those resources go from there? Resources do not come from nowhere. It is naive to say at the very end of a speech with two extensions, "This will not involve resources". This will involve resources. This will involve significant resources, and that is why the Government is opposing the creation of a central coordination unit to do all of this with the consultation and the whole process and the timetable built into this motion.

That is not to say that I am unsympathetic or that the Government is unsympathetic to channelling graffiti art into productive means. We do it through the ACTION competition. It has been working extremely well. I have already indicated to Ms Szuty that I would be happy in the early part of next year to trial a couple of additional facilities on a very small scale. We will go a little bit beyond ACTION; we will find a couple of facilities and we will see how this thing works. You can do that without any significant budgetary impact. I am happy to do that, but I oppose the concept of the Assembly mandating us to establish this central coordination unit. It is a poor use of resources.

Madam Speaker, again towards the end of Ms Szuty's remarks she acknowledged that there is some graffiti that is anti-social. Madam Speaker, there is a lot of it. There is a lot of nasty, racist, violent graffiti popping up around Canberra. It costs us a lot of money to get rid of that nasty, racist, violent graffiti; and I do not think that the nasty, racist, violent graffiti writers, if given a wall, are suddenly going to turn into suburban Picassos. That graffiti is a very unpleasant form of stirring community violence. I think that everyone in the Assembly would have seen the sort of inter-ethnic group nasty racism that I am referring to.

We recently embarked on some significant initiatives that I would like the Assembly to be aware of to deal with that aspect of the graffiti problem, and again they involve resources. This is us using our resources in a smarter way to deal with the problem. Persons who are the subject of community service orders, whether they be adult offenders or juvenile offenders, are working out their community service orders by removing that sort of nasty racist graffiti from Canberra's public facilities. That took some time for us to put in place.

It required extensive consultation with the relevant unions, because obviously there is an industrial issue if people against whom community service orders have been made are doing work that, in the ordinary course of events, would be done by government workers. But the problem was becoming an acknowledged problem. Canberra is not the graffiti capital of Australia, as Mr Humphries said in one of his more sensational utterances to the press on a quiet Sunday a year or so ago; but we were having a problem in Canberra with racist graffiti.

I acknowledge the cooperation of the union movement in the ACT Government Service in saying, "Yes, we are happy to have community service order offenders working to remove graffiti". We launched that a week or so ago at Dickson, when a group of community service offenders scrubbed down the Dickson bus interchange, which had been fairly heavily vandalised. We still have a few problems to sort out. One of these people happily appeared on television, having removed his shoes and socks because it was a warm day, scrubbing down the walls, which gave our occupational health and safety people a fairly nasty job. We are going to have to focus much better on getting occupational health and safety protection for these people out there doing community service work.

We are expending resources to get rid of this nasty and unpleasant graffiti in Canberra, and that is a cost. We do not have unlimited resources; everybody knows that. A good idea is one thing. To trial something like this on a small scale, as I indicated publicly at the awarding of this year's ACTION bus-shelter prizes that we will do next year, is one thing. Requiring us, the Government, to create a coordination unit on this sort of scale across Canberra with a timetable is simply an inappropriate requirement for this Government to use its resources on, and one that the Government will not be supporting. But if the Assembly passes this motion we will do exactly what the Assembly requires.

MR HUMPHRIES (11.21): Madam Speaker, the Government has made some capital out of the apparent cost entailed in Ms Szuty's motion. I have circulated amendments which in a moment I will seek leave to put before the Assembly formally. It is very easy for us to confuse public art and vandalism. Anybody in this place who is concerned about the character of Canberra - - -

Mr Berry: It is very easy to discern.

MR HUMPHRIES: Your colleague Mr Connolly has just made it very clear that there is a fine line between those two things, and it is sometimes hard to distinguish between acceptable use of public spaces and unacceptable use of public spaces. So Mr Berry should pay a bit more attention to what his colleagues are saying.

Madam Speaker, we know that there is a very important obligation on us to do everything we can to prevent the widespread graffitiing and the widespread vandalism of our community by people whose intention is no more and no less than to create a nuisance and to spoil public places for their own enjoyment and for their own gratification. Madam Speaker, the Assembly would do well to bear in mind the need to reduce this kind of vandalism, as I would call it, or unacceptable expression of a point of view, as others might call it.

Mr Berry: Others might call it artists in training.

MR HUMPHRIES: One might call it artists in training. I do not think Mr Berry would dare to distinguish art of any kind from vandalism. Madam Speaker, I believe that this motion of Ms Szuty's is worth supporting - - -

Ms Follett: I have seen some of his painting.

MR HUMPHRIES: You have seen his paintings, have you?

Ms Follett: I have - with a roller, flat white.

MR HUMPHRIES: Perhaps we can arrange a viewing at some stage, Ms Follett.

Mr Lamont: And he is ambidextrous when he does it.

MR HUMPHRIES: Is he really? We will not talk about that. Madam Speaker, I am sure that Mr Berry is a very talented artist, but I think that the problem is those who choose to express themselves outside their own homes. I assume that Mr Berry creates only within the confines of his own home. This motion of Ms Szuty's is worth supporting because I believe that it would have some impact on the extent of illegal and irritating graffiti that we see in this community.

There are many people who, as Mr Connolly quite rightly pointed out, would have no more likelihood of spraying on a wall legally than they would wish to do so illegally, and in those circumstances we would have to expect that those sorts of people would not be reached by initiatives such as this. But there are others who genuinely wish to express themselves, who genuinely have something artistic to say, who I believe would benefit from such a program and who would be prepared to fall into line with this kind of concept and conduct that expression in a way which the community could enjoy and which the community could at the same time regulate.

I oppose much of the wanton graffiti and vandalism which have occurred in our city, and I think we should be taking more direct steps to do something about the problem. This Government, with great respect, despite its comments today, has absolutely nothing to show for its efforts to do something about this problem. This Government, in fact, appears to be willing to do nothing more than pay lip-service to the concept of reducing graffiti and vandalism in this community.

Members will recall that I asked the Attorney-General, in a question on notice some time ago, about how much it is costing our community to deal with the removal of graffiti and spray painted vandalism on our public places. Mr Connolly, the Minister for Urban Services, did not know. He did not have a clue. He said, "I do not know how much it costs us to remove that sort of stuff". Madam Speaker, that is the extent of this Government's understanding of this problem. They say, "We do not know how much it is costing us. We do not know how much it would cost to do something about it". I think that there is a better response than that. We can take a slightly more active response than that and do something about directing some of these energies of young people in the community in a constructive and controlled way. For that reason I think that there is some benefit to be gained.

Ms Szuty drew attention to the record of this kind of program in Queensland. She said that the official figures indicated that there had been a 22 per cent decrease in vandalism on Queensland public railways as a result of this kind of program being employed. I believe, Madam Speaker, that that kind of goal is achievable in the ACT. I think it is worth at least our trying to see whether that kind of reduction in vandalism, reduction in graffiti and reduction in the cost associated with the removal of graffiti in this community is worth achieving here.

Ms Szuty was prepared to acknowledge that some vandalism is done by graffiti artists. Indeed, it is. If we can attempt to divert those people from the illegal to the legal use of public assets, we are taking a positive step. I might point out, Madam Speaker, that there are some much more stringent responses to graffiti than that proposed by Ms Szuty in this Assembly today. I would like to quote from the Summary Offences (Prevention of Graffiti Vandalism) Amendment Act 1992. This is an Act of the South Australian Parliament. I will read just a couple of provisions from it. It says:

A person who, without lawful authority ...
marks graffiti,
is guilty of an offence.

Subsection (3) says:

Where a person is convicted of an offence against subsection (1) ... the court may order the convicted person to pay to the owner or occupier of the property in relation to which the offence was committed such compensation for damage ... as the court considers just.

I am leaving out some words. Subsection (4) is interesting. It says:

A person who -

(a) carries a graffiti implement with the intention of using it to mark graffiti;

or

(b) carries a graffiti implement of a prescribed class without lawful excuse in a public place or a place on which the person is trespassing or has entered without invitation,

is guilty of an offence.

That is legislation which I understand was put forward in the South Australian Parliament by the South Australian Government.

Mr Connolly: They are losing direction, Gary.

MR HUMPHRIES: They will be losing direction very clearly as of Saturday. I have no doubt about that.

Mr Connolly: If this is the sort of legislation they are putting forward, I can see why.

MR HUMPHRIES: Yes, indeed. Perhaps that is true and perhaps that is a good reason to suggest that the Government of Queensland is also going to go down the same path, because I understand that the Queensland Labor Government has also suggested making it illegal to carry graffiti implements.

Mr Lamont: Arrest them for their thumbs.

MR HUMPHRIES: If you were in Queensland, Mr Lamont, you would be saying that; that is for sure. If you were a member of the Queensland Labor Party you would probably be saying that. But I think that we need a slightly more considered approach here. Ms Szuty's approach is the carrot approach rather than the stick approach, and I think it is worth attempting. Perhaps it would be an abject failure; in which case we can try something else. But for the time being I think it is worth our examining that option. Mr Deputy Speaker, I seek leave to move together the amendments which have been circulated in my name.

Leave granted.

MR HUMPHRIES: Mr Deputy Speaker, I ask for a bit of quiet.

MR DEPUTY SPEAKER: Could we have a little bit of quiet, please. Just whisper.

Mr Lamont: I take exception to that. I do not suffer from the same complaint that Mr Humphries has been guilty of for the last four years, Mr Deputy Speaker.

MR DEPUTY SPEAKER: There is no point of order.

MR HUMPHRIES: I move the following amendments:

Paragraph (1), omit all words before "the use of", substitute "the Assembly supports a programme to facilitate".

Paragraph (2), omit "extensive".

The Government is trying to make some capital, and no doubt will do so outside this place, on the basis that this is going to cost us money. Goodness me, we cannot afford to spend any money! I have to say that I would expect that kind of tactic. I would also expect that some money does need to be spent on this program. (*Extension of time granted*) I believe that those amendments will ensure that the Government is not able to argue in the broader community that there is a cost to government. Rather, the motion will state that the Assembly merely supports this program, a program which I believe would be more appropriately funded from both the community and the private sector. I see both the community in general and the private sector in particular as having an important role in this. I believe that Ms Szuty has made reference to the possibility of organisations such as paint companies and others getting involved in backing this kind of concept. I have no doubt that they would, and the result would be a program which costs the Government very little.

It seems to me that the only essential ingredient which would entail some minimal expense on the part of government in this case is identifying what public assets might be available for this kind of program. That is the extent of the problem. Do Mr Connolly and his colleagues find it so difficult to take the time and to meet the minimal costs involved in somebody sitting down and saying, "This bus-shelter is available; that wall is available; this wall of the park is available"?

I really think that the Government finds itself a little short of imagination, a little unable to understand that in this community young people are not always going to do exactly what people want. They need the capacity to express themselves in these ways and we should be trying to control such activity in the way suggested by the motion rather than dealing with it in a way which is obviously much less acceptable to the community. Perhaps by allowing bus-shelters and walls in certain places to be used in this way we can avoid the walls of pharmacies, the windows of government buildings, people's private fences or whatever being used for that kind of purpose. That, of course, would be something all of us would welcome.

I recall my personal experience at the campus of the University of New England. There was a wall at the end of one of the campus buildings which was designated the graffiti wall, and the students association made available paint and paintbrushes for the use of anybody who wanted to go and put something up on that wall. As it happens, the wall was often decorated in a very interesting fashion. I meant to bring today in a photograph of one of those decorations on the wall, but I have not done so. As a result of that arrangement, the campus of the university was much less afflicted with graffiti than has been the case in other parts of the city of Armidale, which is likely to be favourably compared with parts of Civic in the ACT.

Mr Deputy Speaker, I think that there is merit in this proposal. I certainly stand here as an opponent of graffiti, and that is why I am prepared to see this kind of concept being supported. I implore the Government to exercise a modicum of imagination in this matter and accept that in this motion there just might be a solution to one of the serious problems plaguing our city. I ask them to think about whether they just might be able to have the wit to make this kind of thing happen, and happen in a way which will work.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (11.34): Mr Deputy Speaker, this has been something of a mixed debate with some elements of seriousness and quite a number of elements of comedy. Basically, I think the motion is irresponsible. I am quite surprised to see such an irresponsible motion emerge today. Only in the last week of sitting Ms Szuty - let me isolate Ms Szuty at the moment; I do not know where Mr Moore stands on this - opposed the education budget. That is a typical approach by Independents, who need have no responsibility, who can promise everything and who, as Ms Szuty's speech clearly indicated, have no financial responsibility at all.

I listened to Ms Szuty's very long speech, and 95 per cent of it was good stuff. Ms Szuty had gone into it carefully; she had researched her subject; she had given it great thought. There is not too much of what she said that I disagree with. But then it fell down completely, as Mr Connolly pointed out. In one sentence at

the end she said, "No significant amounts of public money would need to be used". Why did she not put into drawing up a budget the same effort that she put into the rest of the speech? That is the problem. That is where it is irresponsible; that is where it completely falls down. A lot of work went into it, but it was only half the work that was needed.

As Ms Szuty's motion stands, if it is not amended, a very considerable amount of money would have to be spent. I resent that approach in the space of a couple of weeks after the same sort of irresponsibility was shown in respect of the education budget.

Mr Moore: I raise a point of order, Madam Speaker. Not only is the Minister misleading the house in terms of the education budget by how he is presenting his argument, but what he is saying is a reflection upon a vote of the Assembly, and I ask you to draw him to order under standing order 52.

MR WOOD: You feel very sensitive about that, obviously.

Mr Moore: No; about your not telling the truth.

MADAM SPEAKER: Would you withdraw, please, Mr Wood.

MR WOOD: I was not asked to withdraw, Madam Speaker. He has just drawn attention to a previous vote. Madam Speaker, I think it is not good enough - - -

MADAM SPEAKER: Excuse me, Mr Wood. I am entirely confused here. I believe that Mr Moore was asking me, on a point of order, to point out that you had reflected on a vote of the Assembly.

MR WOOD: Yes, I did.

MADAM SPEAKER: On that basis I ask you to withdraw.

MR WOOD: Certainly. Madam Speaker, it is not good enough for members in this Assembly, responsibly elected, to claim that we can spend money indefinitely - spend, spend, spend. We can cost this out. I could do some costing. I set out to do some back-of-the-envelope costing, which is more than Ms Szuty did, and it starts to add up. Now Mr Stevenson proposes an amendment which says that proposals have to be submitted. I guess Ms Szuty will object to that.

We will be having an appeals board next. What are we going to have? Where arbitrary power is given to bureaucrats we establish mechanisms to ensure the rights of people, so we will have an appeals board. That will go quite well, because if Ms Szuty's motion gets up, or even the amended motion gets up, I can see us establishing not PACU - which is the acronym for Ms Szuty's public assets coordination unit - but a council with responsibility for aerosol painting. I dare say that Ms Szuty might wish to be chair of CRAP. I think that says a lot.

Let me come back to the serious part, now that we understand that background. I could not let that one slip by. What Ms Szuty said was quite reasonable. I can see benefits in some of this work. She commented on the negative attitudes that arose when this matter was last raised. Without checking the record, I think that when I spoke on that occasion I drew a clear distinction between public art which is discernible art and graffiti. I do not believe that there is any particular connection between those two.

I was interested in Ms Szuty's comment about the project in Brisbane, and I can understand. That does make sense. It could stand on its own as a worthwhile project. I noted the comments she made about the removal of graffiti, and they make sense to me. I have some reservations about aerosol art. I think we need to proceed with caution. There are some dangers in it. I do not envisage every public toilet, every underpass, every wall such as the walls along Parliament House being covered with aerosol art. I would not support that. Once you encourage this, it is difficult to impose limits on what may happen.

The motion has completely fallen down because it has lost touch with reality. What may have been a sensible idea quietly and cautiously worked into some existing structures could have got through this Assembly.

Mrs Carnell: That is what we have put forward.

MR WOOD: No, you have not really changed it at all.

Mrs Carnell: We have.

MR WOOD: You have not changed it at all. This is simply an impossible motion, and the Government's rejection of it is quite sensible.

MR STEVENSON (11.41): I have had a concern about the costing. It is an open-ended situation and, unless it is costed, we do not know what we are agreeing to. There is no doubt that the amendments moved by Mr Humphries would tend to reduce associated costs because there would not be a requirement for a coordinating unit. In general, when it comes to things being painted on public assets - I have spoken with a number of people about this - the concern is that political messages should not be painted. If someone wants to put up a political statement, they can pay for it. There is no right to do that on public assets, and I think the majority of people in Canberra would agree with that.

However, the beautification that can take place with well-done street art is undoubted - provided, as I said, that it is a non-political message and, obviously, that it is submitted first. Mr Wood mentioned that my suggestion is that proposed murals should be submitted. Any suggestion that they should not be submitted is worse than bizarre. The truth of the matter, of course, at the moment is that ACTION require that murals be submitted before they are approved. This is natural. No-one would approve of saying to somebody with a pot of paint and a brush, "Yes, it is yours. Away you go". That is nonsense.

One thing that I was encouraged by was Mr Connolly's statement, "I will accept the direction of this Assembly". That is a remarkable turnaround. With Christmas coming up, I think it is a nice Christmas present to the people of Canberra who elected nine members of this Assembly that at least Mr Connolly, as Minister, will accept the direction of the majority of members in this Assembly. That is a good thing.

Mr Lamont: Will you?

MR STEVENSON: I do. I have no choice.

Mr Lamont: So when we endorse this Assembly as the governing body, you will accept that?

MR STEVENSON: Mr Lamont asks whether, when the members of this Assembly endorse this Assembly as being legal, I will accept it. I have mentioned about 3,927 times in this Assembly that the first requirement I have for anything is that it accord with the Commonwealth Constitution. When Mr Lamont has the Constitution put to the people of Australia and they have a vote to change the various sections that make this Assembly - and I would be the last person to refer to it as a mickey mouse Assembly - legal, then I will agree with it; but not before.

I seek leave to withdraw my earlier amendment and to move the revised amendment that has been circulated in my name.

Leave granted.

Amendment, by leave, withdrawn.

MR STEVENSON: I move the following amendment:

After paragraph (1), insert the following paragraph:

"(1A) proposals for murals be submitted for approval before acceptance and that the themes and content of murals be non-political."

I move this amendment because the Liberal amendments would make my earlier amendment redundant.

MR MOORE (11.45): I have picked up *House of Representatives Practice*, which has a copy of the Constitution in the back, to follow up Mr Stevenson's speech. I do not have quite enough time, but I find it interesting that he has just moved an amendment that suggests that the themes and content of murals be non-political. It seems to me that that in itself would be in breach of the Constitution in terms of freedom of speech. There has been a series of rulings - - -

Mr Stevenson: Not on public assets.

MR MOORE: Mr Stevenson interjects, "Not on public assets". As far as I am concerned, it would be a clear breach of the Constitution, which provides for freedom of speech. It seems to me, Madam Speaker, that it raises an issue about interpretation of specific areas in the Constitution. There is always more than one way to read something. In fact, that is one of the major reasons for the existence of the High Court. Of course, Mr Stevenson does not seem to accept that the High Court has a right to interpret the Constitution. It will continue to do so. Most of us accept that that is the system that we have and we respect that, even when a ruling of the High Court does not fit in with what we would like to see.

I come back to the substance of the motion that Ms Szuty has put to the Assembly today. A very sensible and rational motion it is, I must say. I am quite pleased to have the opportunity to be able to support that motion. Madam Speaker, I would like to give a small example of something that I found particularly interesting.

It relates to this matter. When I visited the Aboriginal community of Lajamanu earlier this year I saw a shed in the Lajamanu school that had been painted with a particularly exceptional Aboriginal desert dot painting. The shed had been the subject of discussion by people I had met in a series of places as I was approaching Lajamanu, and I was very interested to see it. It was explained to me that the community had a great deal of difficulty with sheds in the school because they were always the object of graffiti. The result was that the elders in the community determined that they would actually put a sacred painting on this site. These galvanised iron sheds look quite spectacular. They are the best quality desert painting that I have seen. Of course, as a matter of interest, that ended the graffiti problems, because none of the young people in that community were prepared to interfere with something that was part and parcel of their culture and their community.

It is interesting that in some ways the same concept is applied to what Ms Szuty is doing. If we really wish to deal with graffiti, then give it a place. Young people tend to respect each other's work. I think we would see a diminishing of the graffiti problem. It is what Gary Humphries described as the carrot approach as opposed to the stick approach, and I think it is a very worthwhile approach.

Madam Speaker, I see a series of amendments on my desk. I am quite happy to support the amendments put up by Mr Humphries because I think they retain the meaning and the direction of Ms Szuty's motion and they address some of the concerns raised by Mr Connolly and Mr Wood. Therefore, I think it is quite appropriate for me to support those. With reference to Mr Stevenson's amendment, I am afraid that the principle of dictating what is non-political and what is not non-political would be, to me, an affront to free speech in this area. As far as I can see, the murals that have been painted on bus stations and so forth have been non-political. In fact, to the best of my knowledge, there has not been any outcry over some form of politicisation of this process. In the first place, I do not think it is necessary to put such an amendment and, secondly, really that amendment is about social control rather than about freedom of speech, so I would not be able to support it.

MR HUMPHRIES (11.51): Madam Speaker, I might just make a brief comment on Mr Stevenson's amendment before Ms Szuty closes the debate. I take the point Mr Moore has made about political content of murals. I certainly think it would be inappropriate for anybody to begin to use this process of public art as a way of effectively running some sort of political campaign. If the system becomes relatively well organised, I suppose it is conceivable that somebody could come forward and decide to try to manipulate the system to plaster messages about a particular political party or a particular issue with a strong political flavour to it. That would be an unfortunate corruption of the concept which is being promoted in this motion.

I do not see this coordinating process - the process of vetting, if you like - the way in which murals are put forward as a process to be managed by the Government at all. Madam Speaker, this would be best managed by an organisation which was removed somewhat from the Government. A community group, a charity or something like that could conceivably be involved in coordinating this kind of activity, so I would hope that it would not be a real issue. However, I think that Mr Stevenson does make a reasonably good

point and, if the proposal comes forward as I have envisaged it, I would anticipate considerable difficulty with the way in which that would operate. I would hope that there would not be any question of using this for some sort of nefarious purpose, but rather that we would see it used for the intention for which it is actually put forward, which is to provide young people with a real avenue for expressing themselves in a way which is constructive rather than destructive.

MR LAMONT (11.53): The sentiment in relation to the substance of this proposal, I think, has general support. I have a number of concerns. One is that we should take two hours of private members business time to discuss a matter which, in my view, does not rate as significant as some of the matters that some of those opposite have been extremely critical of the Government for pursuing. I do believe, however, that it is an important matter for two reasons. First, it would provide an opportunity for legitimate expression within our community and, secondly, it would provide for some degree of control that would reflect what the community thought was acceptable in that regard.

However, I do not support the thrust of Ms Szuty's motion. I believe that it is inappropriate for a government agency, the Government or this Assembly to attempt to coordinate or control this activity. I would be far happier for one or even a number of the community groups to be involved in the coordination and facilitation of the legitimate expression of community artists, street artists and so forth. In places such as London street art - in fact, it is footpath art - has become a fairly significant tourist attraction and a legitimate expression of community artists' feelings on political issues as well as social issues. The whole movement of graffiti art, as it has been generically called here, has its genesis in the political process or the feeling of disappointment by particular groups within our society about their inability to express political points of view and to make a political statement.

Therefore, I do not accept any of the sentiment in the amendment proposed by Mr Stevenson. I think it is basically a nonsense. One could say quite legitimately that depicting a particular environmental or landscape feature was a political statement, depending upon how it is constructed. At times the conservation movement, quite unashamedly, acts in a political manner.

Mr Berry: Could you write "Dennis Stevenson sux"? Would that be political or personal?

MR LAMONT: It would depend who wrote it, I would suggest. Then again, it would depend who saw it. There is a famous piece of graffiti on a wall at, I think, the Lyneham shops that refers to a well-known journalist in Canberra. Whether that is regarded as a political statement, whether that is just regarded as offensive graffiti or whether it is regarded as a statement of fact is in the eye of the beholder. That is where I have some difficulty with both the control process that Ms Szuty is proposing and the amendment moved by Mr Stevenson.

You can imagine if Mr Stevenson had control of a unit that was responsible for viewing submissions for street art. I shudder to think of what would be deemed acceptable but, more importantly, what would be deemed unacceptable.

Mr Kaine: Why do you not let me be the judge on that?

MR LAMONT: I would be concerned because I think I have a fairly good idea of what you would allow, and I think Mrs Carnell would take offence at that. That is one reason why I do not think that your colleagues would like to see you in charge of it, Foxy - Mr Kaine. It could rate up there with the one at Lyneham. It could be that we now have two Lynehams.

Mr Kaine: We are all going up to Lyneham at lunchtime to see what is on the wall.

MR LAMONT: That is very good. If that is the case and something about Moruya appears there, Mr Kaine, we will come to see whether you have some aerosol spray on your finger. Ms Szuty has raised a quite legitimate question in the motion. As I say, I have some doubt whether two hours should have been spent discussing it. I think it could have been resolved - - -

Mr Kaine: You have taken up 20 minutes.

MR LAMONT: I have done so because of the nonsense that has been raised by the Opposition. The only people who injected any sanity at all into the debate were Ms Szuty in her opening remarks and Mr Connolly in his response. I believe, however, that there is a reasonable - - -

Mr Stevenson: What about Mr Wood? Was that nonsense?

MR LAMONT: My concern is that Mr Wood always speaks forthrightly, and there was some suggestion that other people did not. That is why I did not mention Mr Wood. I am suggesting that there are avenues available to achieve the sentiment expressed by Ms Szuty without cost to the Government and without cost to the taxpayer.

Should community groups be able to coordinate this activity, we could also look at private buildings and private assets. I think that they should be included as part of a holistic approach to this issue. I do not think it is appropriate that it should be restricted to public buildings, public spaces and public assets. If we are serious about pursuing the issue, there are other avenues available to us that we could include. Quite frankly, I am aware of a number of businesses that would be interested in becoming involved in a program similar to the bus-shelters program.

To some extent the motion goes too far in relation to obligations on government for expenditure that it need not necessarily incur. Secondly, it excludes the private sector and private assets and therefore is not a holistic program. Thirdly, I find Mr Stevenson's thought police process reprehensible. I would suggest that his amendment is in direct contravention of the motion because it seeks to control a process that Ms Szuty is attempting to make more open.

Mr Connolly: Express yourself under these guidelines.

MR LAMONT: That is right. My view is that they are in direct contradiction. Therefore, in giving any consideration to Ms Szuty's motion, we would have to automatically reject Mr Stevenson's amendment. Madam Speaker, it would be appropriate for Ms Szuty to indicate that she would be prepared to withdraw this motion and to hold further discussions with the Minister for Urban Services in the terms that he has already outlined, and I believe - - -

Mr Kaine: She should have discussions with the Minister for the Arts.

MR LAMONT: No. Ministerial responsibility for public assets resides with Mr Connolly, who of course, because of the incredible expertise of the Minister for the Arts, would obviously discuss the matter with the Minister for the Arts. I suggest, Ms Szuty, that, rather than continue with this matter in the way that it has been debated this morning, the most appropriate way to attain something would be to withdraw the motion and to seek discussions with the Minister.

MS SZUTY (12.02): I would like to address the amendments which have been proposed to my motion before I speak on the motion itself and on the remarks that other members have made. Mr Lamont, in his closing remarks, suggested that I withdraw the motion and seek further discussion on it and support for it. That is a curious response to a motion that has been developed over a very long period of time, and in discussion with quite a number of people to date. Given the comments about the motion which have been made in the Assembly this morning, I would be happy to debate it to its conclusion and for the Assembly to take a vote on the matter. That will determine the issue one way or the other. If the motion fails, perhaps I can seek further discussions at a later time and come up with something that the Assembly would be happy with. I support the amendments proposed by the Liberal Party. I see them as not significantly weakening the motion as it stands.

Mr Lamont: That is wimping out, Ms Szuty. It is a backward step.

MS SZUTY: I do not believe that it is wimping out at all. I note the comments which were made by Mr Humphries in support of the motion, the very generous comments that he made about the idea which lies behind the moving of the motion today.

I confess to being somewhat ambivalent about Mr Stevenson's amendment. On first reading the amendment I considered, as other members of this Assembly have considered, that the amendment was really about power, control and influence over what it is ultimately decided becomes a work of public art; but, unlike Mr Wood, I do not necessarily agree that the submission of works for approval would have to be made to a bureaucratic panel. I think it could be a community panel which is formed due to the interest of people in the community who could perhaps have some input into the process. It is a question of who decides what is political and what is not political. Given the comments that have been made in the Assembly, in particular Mr Moore's comments that he would not support Mr Stevenson's amendment, I would be inclined not to support it also.

My other reason for doing that is that when Mr Stevenson first raised this issue with me I really felt that it was more a matter of detail and really did not need to be included in this substantive motion as it stands. However, I note that Mr Stevenson in his opening comments made some very pertinent remarks about the question of who judges street art - who decides what is good street art and what is not good street art. It is a very important question and conundrum that the community needs to come to terms with. I noted as I was speaking to my motion, Madam Speaker, the level of debate and discussion within the chamber. I think that has something to do with the issue itself. Much discussion is generated among people when the question of street art and graffiti is raised.

I found Mr Connolly's remarks somewhat curious. He took issue with the point that I made about perhaps extra resources being spent, in the youth sector in particular, to take on the issue of street art in a fairly substantive way. I do not necessarily see that that is going to occur. A recognised Streetlink program operates from the youth affairs unit of the Chief Minister's Department already. Streetlink officers may very well be dealing at the present time with very alienated young people who may be involved in illegal activity with regard to graffiti or in legal street art, so I do not necessarily see that a great amount of extra resources would need to be spent to facilitate the motion that I am proposing.

Mr Connolly also questioned whether a lot of bureaucratic resources would need to be devoted to drawing the various people together. I have never seen the motion in those terms. In fact, in my opening remarks, I pointed out that it is very difficult, especially for young people who want to access public assets, to decide whom they go and talk to - whether it is the youth affairs unit in the Chief Minister's Department, whether it is somebody in Urban Services who can identify particular assets, or whether it is somebody in Community Services or whatever. I do not really see that there would be a lot of extra resources needed to draw that expertise together.

I noted that the Government are prepared to trial the decoration of additional street art facilities, and I welcome that initiative. I also welcome the initiative whereby people involved with community service orders are in the process of removing illegal graffiti around Canberra at the moment. The other point that I should make in response to Mr Connolly's remarks is that he appeared to pay little attention to the points that I made about supporting legal street art being cost-effective for the community and generating cost savings for the community by reducing the amount of illegal graffiti that occurs in the community. Finally on Mr Connolly's remarks, I welcome his view that the Legislative Assembly will implement the decision to better facilitate legal street art if the motion is successful this morning.

I have already commented on Mr Humphries's remarks, and I thank the Liberal Party for their support of the motion. It is interesting, in fact, that the Liberal Party have the imagination, have the courage, to think of a new idea and think of a way of better facilitating street art. It is disappointing that the ACT Government does not see it that way.

I would also like to take up an interjection that Mr Berry made during the debate, when he commented, "What is the deal?". In fact I have heard that interjection by Mr Berry on other occasions when he has alluded to the Liberals and the Independents having done a deal on something. My response to that, Madam Speaker, would be that the Liberals, unlike the ACT Government, recognise a good idea when they see it. They are to be congratulated on their view.

Mr Wood's comment that Independents have no responsibility is fairly churlish. The motion as I proposed it was well thought through. In fact, he acknowledged that 95 per cent of the material in the motion was good stuff. My response to that is: Why will the ACT Government not support the motion if 95 per cent of it is good stuff? Mr Wood asked about resources. It was interesting that he made several comments about the resources which would need to be spent but did not outline exactly where he thought they would need to be spent.

I thank my colleague Mr Moore for his support for my motion. He too recognises that it is a good initiative and would be a welcome initiative in the Canberra community. Mr Lamont believed that the motion was unworthy of the Assembly's time for discussion. I certainly think that is a personal opinion that he expressed to this Assembly. I remind all members that we all have a different level of interest in particular issues. While some issues will not be of interest to some members, there are other issues which will be.

Mr Lamont also mentioned the possibility of private sector involvement in activities of this kind. I did outline in my opening remarks that the involvement of the private sector is available to young people at the moment. In fact, I cited an example of two young people approaching a local supermarket and requesting permission to decorate the supermarket walls, which they were successful in gaining. But I would say that that does not happen very often in our Canberra community. In closing, Madam Speaker, I would urge members to consider the motion as it has been proposed by the Liberals that it be amended. I consider it to be a worthy initiative which the Canberra community would welcome if successful.

Question put:

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

The Assembly voted -

AYES, 9

Mrs Carnell
Mr Cornwell
Mr De Domenico
Mr Humphries
Mr Kaine
Mr Moore
Mr Stevenson
Ms Szuty
Mr Westende

NOES, 8

Mr Berry
Mr Connolly
Ms Ellis
Ms Follett
Mrs Grassby
Mr Lamont
Ms McRae
Mr Wood

Question so resolved in the affirmative.

8 December 1993

Question put:

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

The Assembly voted -

AYES, 7

Mrs Carnell
Mr Cornwell
Mr De Domenico
Mr Humphries
Mr Kaine
Mr Stevenson
Mr Westende

NOES, 10

Mr Berry
Mr Connolly
Ms Ellis
Ms Follett
Mrs Grassby
Mr Lamont
Ms McRae
Mr Moore
Ms Szuty
Mr Wood

Question so resolved in the negative.

Question put:

That the motion (**Ms Szuty's**), as amended, be agreed to.

The Assembly voted -

AYES, 8

Mrs Carnell
Mr Cornwell
Mr De Domenico
Mr Humphries
Mr Kaine
Mr Moore
Ms Szuty
Mr Westende

NOES, 9

Mr Berry
Mr Connolly
Ms Ellis
Ms Follett
Mrs Grassby
Mr Lamont
Ms McRae
Mr Stevenson
Mr Wood

Question so resolved in the negative.

CHILDREN'S SERVICES (AMENDMENT) BILL 1993

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

That this Bill be agreed to in principle.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (12.16): Madam Speaker, the Government opposes this amendment to the Children's Services Act. It seems from the press releases and statements made by Mr Cornwell that the amendment is motivated by an old-fashioned desire to say that if we get tough we can stop graffiti and vandalism. Surprise, surprise! Having just seen the

"Let us spend lots of money to establish the creative graffiti and vandalism unit" side of the Liberals, we now move to the other side of the Liberals - it takes about 30 seconds - that says, "We must be punitive. We must be tough, and if children vandalise a school we should sell up their parents' house and throw them into the streets so that they get the message".

Madam Speaker, the principle of the criminal law in most places is that a person is responsible for their own acts. A young person who vandalises a school is held responsible for their acts, is brought into the criminal justice system, is brought before the Children's Court and, if found guilty, is convicted, and a range of penalties can be imposed. As I said earlier, we have recently introduced some creative forms of penalty through the community service order scheme under which we are actually imposing upon young people who have engaged in acts of vandalism - - -

Mrs Carnell: Ha, ha!

MR CONNOLLY: Chuckle, chuckle. It is all a joke. That is the Liberal Party's view of public administration generally - chuckle, chuckle, chuckle. Madam Speaker, this is a very innovative scheme that this Government has introduced. As far as I know, it has not been trialled elsewhere in Australia. We are taking young people who have been convicted of offences such as vandalism, damaging schools - the sort of thing that the Liberals are always, shock, horror, screaming about - and we have them doing community service orders to repair vandalism and damage in the community. That is an innovative and positive contribution to the community, one would think.

Mrs Carnell: Yes, we agreed with that.

MR CONNOLLY: The Liberals in fact are agreeing with that. That is some encouragement. That is the way to deal with these sorts of problems. Some of the young people who are getting into the criminal justice system for this type of behaviour end up going through some of the fairly complex new structures that we are creating to deal with this problem of uncontrollable, violent or persistently offending youth. As members would be aware, in the last community services budget we created the adolescent day centre, which is set up in an old preschool in the inner north. That is a unit which is taking people who have been identified through the education system as having persistent anti-social, uncontrollable behaviour. A professional would wince at that word, but it is that sort of repeated behaviour problem. We are devoting resources, by way of community workers, by way of health and related professionals, to addressing those behaviour problems in young people.

The way to deal with an acknowledged problem of vandalism against public property such as schools - and this was the emphasis of Mr Cornwell's speech and has been the emphasis in Mr Cornwell's press releases on this issue - is to make those young people responsible for their actions. That is the purpose of the criminal justice system. Our innovation in getting those kids and having them out there scrubbing off graffiti perhaps is the most symbolic way of making them accountable for their actions, because it is not a particularly pleasant task to be out there scrubbing off graffiti and it brings home to young people who have offended the anti-social nature of their actions. We have ranges of other penalties, but we also have ranges of support mechanisms, through the adolescent day care unit, to deal with these people who have behavioural problems.

What is it going to add to the process of diverting those young people's activities and changing their behaviour, Mr Cornwell, if we give the court the ability to make their parents pay for the consequences of their damage rather than make the offenders pay for the consequences of their damage? It has always been an option in criminal court sentencing to make a reparation order against the offender. But Mr Cornwell's proposal is to direct the reparation order not against the offender, but against the offender's parents. If you want to follow that principle - and we do not - you should significantly modify the legislation that you have. It is true that other States have this type of legislation; I acknowledge that. You should modify it in the following ways. You should provide a right of appeal, as they do in New South Wales. Mrs Carnell nods; but that is not done in the Bill that her party is bringing before the Assembly today. Mrs Carnell nods, indicating that there should be a right of appeal, but says, "Oops; we forgot about that. That is a mere bagatelle. Do not bother me with details".

We should also ensure that the issue of guardians is addressed. This Bill refers to parents. What is the situation where a child is in the custody not of a parent but of a legal guardian and they offend? Whom do you hold responsible? The theory behind Mr Cornwell's Bill is that the person who has control of the child should be controlling the child's behaviour, and therefore you should be able to hold that person liable. So, logically, one would think that, where a child is in the custody or control of a guardian rather than their parents, you would hold the guardian responsible, rather than the parent, in these punitive orders. Again, the Liberals say, "Do not bother us with details". They have not looked carefully at the interstate models that they are purporting to model their legislation on; they just make a broad statement. If you accept the principle, the Government would say that the legislation is flawed, but the Government does not accept the principle.

We also say that where this legislation has been put in place in other States it is virtually never used; it is ineffective. In what is regarded as the leading text on law relating to parental responsibilities - a publication by Ms Gamble, *Law for Parents and Children*, published by the Law Book Co. in 1986 - the statement has been made that in practice the New South Wales provisions do not present a real threat, as an almost reprehensible lack of control has to be shown to warrant the making of the order. People who have looked at the application of this law in States where it exists have found that it is never really applied; that the courts are mindful of what could happen if you applied it literally. You were scoffing when I said that the literal consequences of this could be that if a child burns a school down the parents could have their home sold out from underneath them. Of course, a not particularly pleasant young child with behavioural problems and possibly no great love and affection for their parents - they often tend to go together - may think, "What a jolly fine idea! If I go and burn that school down my parents will be held financially responsible".

Again, I hear a little chuckle from the other side; but, Madam Speaker, anybody who knows about behavioural problems in youth in the community - and a number of members present sat on the Social Policy Committee in the previous Assembly when it looked at this problem of persistently misbehaving youth, of youth with major behavioural problems - would know that some of the youths who engage in this sort of behaviour, sadly for them, have parents who do not give a damn, parents who wilfully ignore them. They usually respond in kind with loathing and contempt for their parents, and here we are giving them the trigger because we have - - -

Mr Cornwell: Wilfully and habitually.

MR CONNOLLY: Yes, we have that. So the trigger is there and they go and burn the school down. The consequence is that their parents are held responsible under Mr Cornwell's legislation. You were laughing a couple of minutes ago. I have just led you down the track, with Mr Cornwell's agreement at every point, that where you have the repeatedly offending youth, the sort of - - -

Mr Cornwell: You are very good at setting up stalking horses, are you not?

MR CONNOLLY: You need to be, to knock down the silly arguments that you people come up with. Members of the Social Policy Committee in the last Assembly saw those persistently offending youths, those youths with real behavioural problems, that type of youth who often goes burning schools down and committing other acts of wanton violence. In many cases their parents, Mr Cornwell agreed, would fall into this category of persistent wilful neglect of a child - a major social problem which we need to address. But you do not address it through making parents, in effect, criminally responsible and financially responsible for the actions of their children. Many of those young people would probably delight in the thought that they are going out and conducting an anti-social act and expressing their anger, frustration and contempt at the community by destroying a community asset, but into the bargain Mr Cornwell is giving them the opportunity to get back at their parents by having them held financially responsible for their actions.

Mr Cornwell: What a fallacious argument!

MR CONNOLLY: Mr Cornwell, tragically, that is the consequence of your Bill. The Government disagrees with this Bill in principle, for the reasons set out. If members of the Assembly are minded to agree with the principle you might cast your eye over some of the detail and at least pick up some of the issues in interstate models. Those models are referred to by textbook writers as being pretty much ineffective. At least have appeal rights and at least address the situation of the guardian. You have the detail wrong, and you should have a look at that if you are going to go further. If Independent members are inclined to support the principle of the Bill and go ahead with a principle that the Government says is fatally flawed, it might be appropriate to do something at the detail stage.

MR MOORE (12.27): Madam Speaker, when we are dealing with the issue of parents having to pay for their children's destruction of property, I think it is worth while looking at a case in Warwick, Queensland, of all places, where a magistrate, when confronted with a minor who had destroyed six trees, ordered that the teenager buy - with his own money - six new saplings and tend them until they had grown to the height the trees were when he destroyed them. The saplings took two-and-a-half years to grow to the same height, at which time all records of those actions were wiped. The lesson is that the minor involved had to take responsibility for his own actions.

When we look at the piece of legislation that has been put up by Mr Cornwell I see two conflicting areas. On the one hand there is an attempt to make people responsible for their own actions through the parents. Mr Cornwell is saying that the parents will realise that the consequence of their children's actions will come back on them and therefore they in turn will put a great deal of pressure on their children to act in a responsible way that will not hit the parents' pocket.

The Bill also provides a disincentive to parents who might otherwise feel relaxed about what their children are doing and where their children are - parents who say, "We do not care if the kid is out and mucking around on a Friday night. It is no big deal. Kids get up to that sort of nonsense". We have all heard those sorts of statements. This piece of legislation attempts to address that and put pressure on the parents so that they in turn will put pressure on the children. It sets up those two areas of disincentive.

I think the Bill really begs the question in terms of the consequence of the actions. What we really need to do in dealing with minors is to make it clear to them that the consequence of their actions in destroying property will in some way come back to them. Mr Connolly outlined what is currently happening when community service orders are made. For young people, minors, who have been involved in the destruction of property, through graffiti - a subject we have just dealt with - or in some other way, community service orders give them an understanding of the consequences of their actions and what is required to fix them. In a previous debate this morning the issue of the cost of such things was raised. When we incarcerate people our costs are rather significant. When we use things such as community service orders, I think there is a clear saving to the community as well as a - - -

MADAM SPEAKER: Order! It is 12.30 pm. The debate is interrupted in accordance with standing order 77 as amended by temporary order.

Sitting suspended from 12.30 to 2.30 pm

QUESTIONS WITHOUT NOTICE

ACTTAB - Contract with VITAB Ltd

MRS CARNELL: My question without notice is to the Deputy Chief Minister in his capacity as Minister for Sport. I refer the Minister to a meeting of senior executives of TABs from around Australia in Sydney on Monday, 6 December. Is it true that the ACTTAB was advised at the meeting that its involvement in the super-TAB link system could be in jeopardy should its recent deal with VITAB result in lost turnover for Australian TABs? What guarantee can the Minister give that there will not be any lost turnover for the TABs?

MR BERRY: The meeting to which Mrs Carnell refers was held in Sydney and was convened to discuss a range of issues related to inducements for major punters.

Mr Kaine: Yes, we know that; but why do you not answer the question?

MR BERRY: The old silver fox over here did not even ask the question and he still wants to intervene. You are not leader now; Mrs Carnell is. This is the woman that is leading the Liberal Party down the path of destruction. You all criticise her for it, but you are to blame.

Mr Humphries: I raise a point of order, Madam Speaker. This is an important matter, and I think the Assembly would like to hear the answer. I ask, therefore, that the Minister be directed to remove himself from the irrelevancies of who happens to be Leader of the Opposition.

MADAM SPEAKER: Thank you, Mr Humphries. I will similarly direct that there be no further interjections today.

MR BERRY: The Liberals have been trying to make a big thing out of this. The Government made a good decision and decorporatised the TAB. We own it forever, and your mates are not going to get their little fingers into it. There is no chance that your mates are going to get their little fingers into it. There has been a deal done in relation to - - -

Mr Humphries: Bob Hawke?

MR BERRY: No; they want to get their big fat pudgy fingers into it, Mrs Carnell indicates. The top end of town would really like to get hold of a profitable thing like the TAB.

Mr De Domenico: As would Mr Hawke.

MR BERRY: Here you go. Mr Hawke has nothing at all to do with the TAB. Mr De Domenico seeks to mislead, seeks to poison, as usual. These are the grubby little stunts that we often see from Mr De Domenico in particular - the grubbiest of stunts.

Much of the discussion centred on this issue of inducements, be they financial or in kind, problems relating to the operation of TABs in hotels and clubs, and the level of commission paid to agents providing these services. The issue of VITAB and the Victorian TAB's arrangements in Vanuatu were also discussed. The ACT is not the only TAB that has an interest in what goes on in Vanuatu. The Victorian TAB has as well. This issue of inducements is one of concern around Australia, not only in relation to the operators of hotels and pub TABs who might offer inducements, but also for other cross-border TABs. There is a general consensus that it does not do any of the TABs any good to poach each other's territory, but that is not to say that people in Melbourne cannot have a phone account in the ACT or that people in the ACT cannot have a phone account in Victoria. Inducements are a problem, but they are not the sort of problem the Liberals are trying to make them out to be.

While the potential for the payment of inducements to Australian punters through these offshore arrangements was recognised, none of the States or Territories suggested an end to these types of arrangements. That is the advice I get back from the meeting.

Mr De Domenico: No; just the particular one that was signed by you.

MR BERRY: Wait a minute. None of the States or Territories, according to the advice I get back from the meeting - not one, Mrs Carnell - suggested an end to these types of arrangements.

Mrs Carnell: That is all right. We will show you that tomorrow.

MR BERRY: Were you at the meeting? No, you were not.

Mrs Carnell: Were you?

MR BERRY: No; my advisers were there. They tell me that that was the case, and I have no reason to disbelieve them. The meeting agreed on the need to monitor overseas operations to assess whether there is any effect on the Australian racing industry in the longer term. Naturally, that is something that would continue to happen; there is no question about that.

You can try to kick up a bit of dust. The fact of the matter is that a deal has been done by the TAB that will return money to the Territory. Whether you like it or not, the TAB will be more successful - hate it though you must. The other TABs do not like our success, either. The ACTTAB has been doing very well, thank you very much, and of course they are envious. They have big green eyes about the success of the ACTTAB. There was also some discussion about the effects of new technology, such as PC based betting and the Sky channel proposal for the broadcasting of Australian race meetings. In all, this meeting discussed a range of issues. There is recognition that VICTAB has arrangements in Vanuatu and that the ACTTAB has arrangements in Vanuatu, and of course there is some envy amongst some of the TABs that they did not get it.

Visiting Medical Officers Dispute - Response to Advertisements

MS ELLIS: My question is directed to the Deputy Chief Minister in his capacity as Minister for Health. I ask: Will the Minister inform the Assembly as to the response to the advertisements for specialist doctors that were placed in the national newspapers recently?

MR BERRY: I thank Ms Ellis for the question. I must, first of all, say that one of the most disappointing elements of this dispute is that not once have the Liberals opposite called on the doctors to go back to work and start treating patients. Instead, Mrs Carnell has been a continual apologist for the industrial action, the strike action, against our patients in the public system. Not once did she go out and say, "Go back to work". She is an apologist for the actions the VMOs are taking against innocent patients in the ACT.

Mr Kaine: I raise a point of order, Madam Speaker. The Minister has successfully mounted an attack on the Leader of the Opposition. Would he please answer the question Ms Ellis asked? I ask you to direct him to the question that was put to him. He was not asked to attack the Leader of the Opposition, I recall.

MR BERRY: Ms Ellis seems perfectly happy with my answer. She is perfectly happy because we are getting right to the nub of the issue.

MADAM SPEAKER: Thank you for your point of order, Mr Kaine. I believe that the Minister is answering the question. Would you please proceed, Mr Berry?

MR BERRY: It is one of the reasons why the VMOs are still taking action against sick and injured in the ACT; there is no question about that. If the Liberals had the guts to come out and demand that they go back to work and criticise them for the action they are taking, it might help.

Mrs Carnell: Criticise you.

MR BERRY: Of course you criticise me.

Mr De Domenico: And if you had the guts to go and eyeball them instead of sending in the troops.

MR BERRY: Come on! You would not know anything about it.

MADAM SPEAKER: Order! The Minister would get to his answer sooner if he was not interrupted. Mr Berry, please proceed to answer the question, not their interjections.

MR BERRY: Because of the VMOs strike, and that is what it is, and the actions of their union, because that is what they are - there is nothing wrong with trade unionism; but never ever deny it - -

Mr Humphries: Unless they are doctors.

MR BERRY: No, there is nothing wrong with doctors having a trade union; but never deny it, and that is what they seek to do. They seek to deny that they are on strike, but they are. It is very hard for them to link successfully a strike and care of patients. It does not work too well. Bleeding patients are being sent to Sydney on aeroplanes because doctors are on strike. It is very hard to win that argument publicly and very hard for you to defend, Mrs Carnell; but I note from your silence a defence.

Mrs Carnell: That is right, because the Speaker told me to be quiet.

MR BERRY: May I answer that interjection. Let Mrs Carnell outside demand that the doctors go back to work. Outside of this place there is silence on the issue of demanding that the doctors go back to work, silence on the issue of criticising the effect of their devastating action on the ACT health system. Therefore I hear a loud defence of the doctors' actions.

We have a duty in the ACT to maintain the health care of the Canberra community and we have committed ourselves to that duty. We cannot sit and wait forever while the AMA plays its games, because that is what it is doing - playing games with the lives of people in the ACT. We do not have a blank cheque, although Gary Humphries did. Mr Humphries had a blank cheque and gave it to the VMOs.

Mr Humphries: Madam Speaker, I rise on a point of order. Mr Berry has been asked at least twice already in question time today to honour standing order 118, which refers to members being confined to the subject matter of the question. In a total of more than 12 minutes of question time so far, we have heard almost nothing of the questions that were asked of Mr Berry. I ask you as Speaker to prevent this abuse of question time and direct that the Minister confine himself to the subject matter of the question.

MADAM SPEAKER: The question was about VMOs, was it not, Mr Berry? Would you like to proceed?

Mr Humphries: It was not about Gary Humphries; it was not about Kate Carnell.

MR BERRY: It is about the blank cheque and the demand by the VMOs that they get a blank cheque.

Mr Kaine: On a point of order, Madam Speaker: The question was not about a blank cheque. In fact it was about an advertisement.

MR BERRY: We are sensitive about blank cheques on your side of the house, are we not?

Mr Kaine: We have not heard the Minister even refer to an advertisement yet. I think he should be directed to do so.

MADAM SPEAKER: Thank you, Mr Kaine.

MR BERRY: Of course we have to advertise to fill the gaps created by the striking VMOs. We cannot - - -

Mr Kaine: On the point of order, Madam Speaker, could I ask you to rule on my point of order before the Minister carries on with his speech?

MADAM SPEAKER: Mr Kaine, Mr Berry has heard your point of order and Mr Humphries's point of order. I think Mr Berry will now proceed to answer the question.

Mr Kaine: But you do not intend to rule on it?

MADAM SPEAKER: That is the ruling. He will answer the question.

MR BERRY: The reason we are in this position where there is conflict with the VMOs is that they were given succour by Mr Humphries, under Mr Kaine's leadership. They were given the blank cheque; there is no question about that. Somebody had to fix it, and we have been left to clean up the mess again.

Mr Humphries: Madam Speaker, I have to press you again on the point of order Mr Kaine and I have raised already. Mr Berry was asked about the response to his advertisements for doctors. Mr Berry has not touched on either the question of advertisements or the doctors themselves. I ask you to direct him to proceed to answer the question.

MADAM SPEAKER: Mr Humphries, I had directed him to answer the question, and I believe that we were getting to the connection between whatever Mr Berry was talking about and the advertisements. Please proceed, Mr Berry.

MR BERRY: We have to go to the nub of the issue and why it is that we are forced to advertise interstate as a result of this strike action. There is no question that Mr Humphries and Mr Kaine bear some of the responsibility for the blank cheque the doctors now demand. There is no question about that in anybody's mind, I am pleased to say. We have received, as a result of our advertising, 15 expressions of interest by telephone. There is considerable interest interstate, I am told, in the positions here, but people are waiting to see what happens with the meeting this evening. There is interest from more people than the Liberals would seek to have express an interest in the job here, but of course there are - - -

Mr De Domenico: There are 16 instead of 15, are there?

MADAM SPEAKER: Order! The question is now being answered. Would you let the Minister proceed.

MR BERRY: There is considerable interest by doctors interstate in positions in the ACT. There are eight written applications already and there will be more, I am informed. If the VMOs continue on strike, we are going to continue with our recruitment campaign to fill the positions they leave. We have to do that. We are obliged to ensure that our hospital system continues, and we will do that.

Mr Humphries: You will not, with 15 doctors.

MR BERRY: The facts of the matter are that we will not need 140 new doctors in the ACT to cover the difficulties that have been created by the VMOs who have gone on strike.

Mr Humphries: Why not?

MR BERRY: The fact of the matter is that they do not work full time in the hospital system, as everybody knows. What we will also do is to place more emphasis on the need for salaried specialists, because we are in need of salaried specialists.

Mr Humphries: You will not get the same quality with salaried specialists.

MR BERRY: Rubbish! This is the old apologist for the striking VMOs, over and over again. You have folded every time, Mr Humphries. Do not interject. You folded and gave them the blank cheque before; there is no question about that. You folded and gave them the blank cheque. You ought to be ashamed of yourself. You did it more than once, too. Mr Kaine gave you a little pat on the head for folding as well. We can always depend on you top end of town people to defend the privileged; there is no question about it.

I am not going to sit back and watch the AMA play games with ACT patients. We have to do something in order to ensure the viability of our public hospital system, and I am going to do it. We are getting continuous interest in these positions, and the people of the ACT can be assured that we are going to do everything we can to make sure that our public hospital system is a viable one. We are not going to be bludgeoned into handing over a blank cheque.

ACTTAB - Contract with VITAB Ltd

MR DE DOMENICO: My question without notice is to the Deputy Chief Minister in his capacity as Minister for Sport. I refer to the Minister's comments in the Assembly yesterday when attempting to answer a question about VITAB. In an article in the *Australian Financial Review* dated 26 November 1993 a person who you confirmed yesterday is a director and chairman of VITAB, namely, Mr Dan Kolomanski, said that a VITAB shareholder, Mr Bob Hawke, took part in negotiations with the ACT Government in relation to VITAB. Since you also yesterday informed the Assembly that you personally had not held such discussions with Mr Hawke, with whom in the Government did Mr Hawke negotiate?

MR BERRY: If there were going to be any negotiations with anybody in the Government - and I refer to this group of Ministers here - it was going to be me, and it was not me.

Mr De Domenico: So who was it?

MR BERRY: I do not know who wrote the article.

Mr De Domenico: Mr Kolomanski said it.

MR BERRY: I do not know who wrote the article or what interpretation they put on their collection of information before they wrote the article; but I am telling you that I have had no negotiations with Mr Hawke, and I would be the only Minister who was to have negotiations with Mr Hawke. Therefore, I am afraid that the article was wrong.

MR DE DOMENICO: Madam Speaker, I ask a supplementary question. Noting that the Minister yesterday said in the house that he had taken advice from the Law Office and the Treasury, was the decision to sign the contract made by you, Minister, or by the whole of Cabinet?

MR BERRY: It was a decision that was made by me in the normal course of my consideration of matters that are important for the ACTTAB. It was subsequently signed, as I reported to you yesterday, by the chairman of the TAB, among others.

Education Budget Cuts

MR MOORE: My question is directed to the Minister for Education. Now that the Minister has had time to assess what specific areas will be reduced as a result of budget cuts in education, will he inform the Assembly of the specific areas he is targeting?

MR WOOD: Madam Speaker, the consideration of the renewed education budget is still under discussion. Indeed, a short time ago I had a meeting with the Education Union on the matter. I am not in a position to advise the Assembly of what details may yet emerge. I can tell you that that amendment, which I think was a foolish one, but we have been down that path - - -

Mr Moore: On a point of order, Madam Speaker: Once already today the Minister has breached standing order 52. You have drawn his attention to it, and I ask you to make clear to him that he must not breach that standing order.

MADAM SPEAKER: That is a fair point of order, Mr Wood.

MR WOOD: I note that, Madam Speaker.

MADAM SPEAKER: You have noted it. Would you withdraw the word "foolish"?

MR WOOD: Yes, I withdraw such a reflection. Let me tell the Assembly that I have been severely constrained on what I may do. The intention of the amendment was related to 80 teachers, but the interpretation of the amendment can be so wide as to make it difficult for me to come up with the savings that are necessary to find that \$1.5m. It is the case that we have to look at the education budget, and the further decision making as a result of that is made very difficult by a certain form of reading. We are proceeding with that, and you would not be surprised to know that I will be discussing the matter with the Chief Minister and my colleagues before raising the matter in this Assembly.

Teachers - Separation Packages

MR CORNWELL: To some extent my question follows on from Mr Moore's. On 25 November, as you are aware, Minister, the Assembly amended the Appropriation Bill to protect 80 teacher positions due to be cut from the 1993-94 budget. I ask: Is your department continuing to target dozens of experienced teachers for redundancy packages? If so, will you give an unqualified guarantee that, despite these packages being offered, the existing number of teaching positions will be maintained, or is the Government once again attempting to defy the will of the Assembly, as it did over the kick boxing issue?

MR WOOD: Madam Speaker, Mr Cornwell used one word quite inaccurately, I think. He said "target" in relation to these positions. The fact is that there are a significant number of teachers who are very keen to get those packages. So there is no sense of targeting. The further piece of information I would have thought was understood was that all those teachers - such number as is yet to be determined - who may receive a package will be replaced. Formerly, packages would have been offered and there would have been 80 fewer teachers recruited than would have been generated by the staffing formula, but in this case every teacher will be replaced.

Perfumed Glue

MRS GRASSBY: My question is to the Minister responsible for consumer affairs. Has the Minister taken any action to prevent the sale of perfumed glues in the ACT?

MR CONNOLLY: Coming up to Christmas, the consumer affairs people have been out checking product safety. An item discovered in Canberra stores in the last few days is a stick of glue designed for children. It is quite colourfully packaged and is marketed as perfumed glue. The product in itself is non-toxic and quite safe; but obviously it is encouraging children to smell glue, and other forms of glue are extraordinarily dangerous. I have imposed a product safety ban on this product. We have been in touch with our colleagues in New South Wales, and a similar order has been made there. This product, I am pleased to say, has been withdrawn from sale in the ACT, but I would urge people to be careful of such an item.

I also indicate that another product has been discovered which appears to be very unsafe. It is a Thomas the Tank Engine night-light. This is apparently very attractive to young children, although in the ACT I think ACTION buses would be more popular than trains. The night-light is a very dangerous product in that it is plugged directly into the main, so it attracts the child to the power outlet. It is extremely easy to take the plastic Thomas the Tank Engine off. What you are left with is a very cheap, foreign manufactured, non-Australian-safety-approved night-light device which is very crudely soldered together and would be quite easy for a child to get into, again bringing the child to the night-light. This has not been passed by the Australian Safety Standards. I have ACTEW engineers looking at this product at the moment to determine whether it could comply with Australian Safety Standards, and we are looking at banning this as well. So there are traps out there in the marketplace, but consumer affairs officials are out there protecting the public.

Hepatitis

MR HUMPHRIES: My question is directed to the Minister for Health. ACT Health's September quarter activity report showed a dramatic increase in the number of reported cases of hepatitis A, B and C in the ACT. In fact, all types of hepatitis have increased, from 72 reported cases to 157, or an increase of more than 100 per cent, in just three months. I ask the Minister: What is the reason behind this dramatic increase in hepatitis and what are he and his Government doing to stem this tide?

MR BERRY: Madam Speaker, it strikes me as very interesting that somebody who had an undivided interest yesterday in reducing the power of health officers would now ask questions about the rise in these particular figures. I am trying to look at some of the figures. There is no explanation for the increase in the September quarterly report. I will make sure that I get an analysis of those figures and provide it to the Assembly.

Mount Stromlo Observatory

MS SZUTY: My question without notice is to the Minister for the Environment, Land and Planning, Mr Wood. I note that the Minister received a letter from Senator Chris Schacht, the Minister for Science, in July this year regarding the proposed development of North Duffy-Holder and the effect this will have on Mount Stromlo Observatory. Can the Minister inform the Assembly whether the Science Minister did call on the Government to reconsider proceeding with the proposed draft variation to the Territory Plan, North Duffy-Holder? Can the Minister also inform the Assembly as to when the findings of the study on the effects of residential and street lighting on the operations of the Mount Stromlo Observatory might be available?

MR WOOD: Madam Speaker, that is an interesting question, and the answer is very simple and very clear. Minister Schacht is quite pleased with the processes we have established. It is as simple as that. That is the answer. What is less pleasing is the way that issue was run. As Ms Szuty said, some two months or so ago Senator Schacht wrote to me. I responded to him, and he is quite satisfied with the process. I have not read it in detail, but I think a report in one of the throwaway newspapers yesterday of what he is now saying is fairly accurate.

A community group that I have had discussions with and that we respect put words in Senator Schacht's mouth. I think that is unfortunate. They put out a media statement earlier this week - I presume that they got that letter - and said what Senator Schacht said. I think some not too good radio news editing announced that Senator Schacht was giving me a serve. That is simply not the case, and I think that community group should look at the way it does things and avoid misuse of letters and circumstances.

As to the end result, there has been a scientific study, very sensibly, in which there has been some debate between the department, the university and the observatory. That is continuing. The outcomes, the shared decision making it will take, are still a little way off.

Government Service - Home-Garaged Vehicles

MR KAINE: Chief Minister, during the estimates hearings you undertook to review the arrangements under which ACT Government owned vehicles are home garaged. Has that review been initiated yet?

MS FOLLETT: Madam Speaker, the short answer to Mr Kaine's question is yes; that review is under way.

MR KAINE: I have a supplementary question, Madam Speaker. Chief Minister, when do you expect that to be completed, and will you undertake to report the results to the Assembly?

MS FOLLETT: Madam Speaker, I do not have with me an expected completion date, but I can find that out and advise the Assembly. I would expect also that, as it was a matter raised by the Estimates Committee, the results of that review would be available.

Teachers - Separation Packages

MR STEVENSON: I ask the Education Minister, Mr Wood: What is the reason behind packages being offered to teachers, and approximately what amount or what range are we talking about for each package?

MR WOOD: Madam Speaker, in a sense the question might best be directed to the Chief Minister, who really has responsibility for packages. In general they come out of Treasury. But I will give you a short answer. Very simply, the offering to senior teachers, teachers of considerable experience who have been there for a long time, is based on upwards of a year's salary entitlement, depending on certain requirements. The teachers, as I explained to Mr Cornwell, will be replaced. In most circumstances the renewal we are getting is that young and vital teachers will replace old and vital teachers; and the new salary level is quite a deal lower and there are very significant savings to be made in that respect.

MR STEVENSON: I ask a supplementary question, Madam Speaker. I thank the Minister for answering the question. Would it not be more relevant to try to keep those teachers with considerable experience, in view of the concerns that we have about the education system? Also, as packages normally are offered in order to reduce staff, would it not be best to remove that incentive now, in light of the fact that teacher numbers will not be reduced?

MADAM SPEAKER: Mr Stevenson, you really are asking for two sets of opinions. Mr Wood, you may answer the question, but keep that in mind. He is not to ask you for an opinion.

MR WOOD: I am happy to answer it because I think Mr Stevenson raises an interesting point. First of all, these are separation packages. They are not the pure redundancy packages that do result in no replacement of a person. There is a slight difference in concept.

Mr Stevenson asked: Why do we not hold on to our experienced teachers? I can answer that by saying that our enrolment pattern in the last 10 to 15 years has been such that we have been taking on very few new teachers and our teaching staff is somewhat out of kilter. For most of the ACT's history, and in most circumstances around Australia, the pattern has been for continuous growth in the number of young people. Fifteen years ago we had 40,000 people in our schools. We still have about 40,000 or 41,000 people in our schools. There has been no great influx of new teachers because of student growth. In terms of a more symmetrical range of teachers, we probably have a great number of older, more experienced teachers, but we also need that younger group of teachers. I think we will get a better balance if we can go down that path. We still have, predominantly, very experienced teaching staff in the ACT.

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

Adelaide Avenue Roadworks

MR CONNOLLY: In the last sitting week, which seems a long time ago, Ms Szuty asked a question about what surveyors were doing out on Adelaide Avenue. I undertook to have the matter looked into. The work is preliminary survey work for the item that is identified in the 1993-94 capital works program, under ACT City Services Group, as item No. 3357, Adelaide Avenue Bus Lane Pavement Improvements Stage 2. It involves reconstruction and repair of the bus lane on the citybound carriageway from the end of the guard rail north of Carruthers Street on Yarra Glen to Hopetoun Circuit. Rehabilitation of the Adelaide Avenue bus lane on the citybound carriageway from Hopetoun Circuit to State Circle was completed in October 1992. The work was surveying. Pegs have been placed and it is expected that the pavement reconstruction will be completed by, I am told, May of next year.

PERSONAL EXPLANATIONS

MRS CARNELL (Leader of the Opposition): Madam Speaker, I seek leave to make a statement under standing order 47.

Leave granted.

MRS CARNELL: Thank you very much. Madam Speaker, in question time the Minister for Health made a number of comments about statements that I had made and my attitude with regard to the doctors dispute. I have never condoned the current dispute between ACT Health and the VMOs. In fact, I have stated on a number of occasions that I believe that both sides, and I stress both sides, are being bloody-minded. I have publicly stated that the ACT cannot afford to pay VMOs substantially more than their counterparts in New South Wales, and that statement has been made in a number of forums. During question time Mr Berry challenged me to urge the doctors to go back to work. Mr Berry, I am very happy to do that if you are willing to enter into face-to-face negotiations. If you are interested in entering into face-to-face negotiations with the doctors now, I will go out of this place and urge the doctors to go back to work.

Mr Connolly: Madam Speaker, I raise a point of order. Is this sort of material in a personal explanation within the standing orders?

MRS CARNELL: I have finished. It is all right.

MADAM SPEAKER: Mrs Carnell, standing order 46 requires that you make only personal explanations.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport): I seek leave to make a statement under standing order 47, I think it is.

Leave granted.

MR BERRY: Madam Speaker, Mrs Carnell, of course, misquotes the position. There has been six months of negotiation with the VMOs and we have gone back to the original position - that is, they demand exactly what they have, the blank cheque that Gary Humphries gave them. They want the blank cheque forever, for all of them.

Mr Humphries: I raise a point of order, Madam Speaker. Is Mr Berry making a statement under standing order 46 or standing order 47?

MADAM SPEAKER: It was standing order 47, Mr Humphries, and he is explaining that his speech has been misquoted or misunderstood, I believe.

Mr Humphries: Madam Speaker, standing order 47 refers to "A member who has spoken in a question".

MADAM SPEAKER: To a question.

Mr Humphries: To a question, I beg your pardon. There is no question before the Assembly at this stage. It is quite inappropriate for standing order 47 to be used in these circumstances. I ask you to rule the Minister out of order.

MADAM SPEAKER: I am not sure that that is right, Mr Humphries. He was asked a question; he spoke to a question.

Mr Humphries: To a question.

MADAM SPEAKER: I misunderstand you.

Mr Humphries: Madam Speaker, I think that is a reference not to a question in the sense of question time, but to a question in the sense of an issue - a question before the house that such and such an issue be agreed to or whatever.

MR BERRY: Standing order 46 will do. It can be one of a personal nature.

MADAM SPEAKER: Mr Humphries, I think you stand vindicated there. Mr Berry, you are seeking my leave - - -

MR BERRY: There has been an imputation that there has not been - - -

Mrs Carnell: I did not make any imputations.

MR BERRY: Wait a minute. There has been an imputation that there have been no discussions between me and the doctors. There has been six months worth of discussions. I was locked in for several hours - five hours all-up, I think. I do not know of too many Ministers who would get involved in negotiations with a union at that length.

Mr Humphries: I would have.

Mr Connolly: You just surrendered.

MR BERRY: Certainly, Mr Humphries would not. He just gives in and gives them a blank cheque. He is well known for that.

Ms Follett: Did he meet with them?

MR BERRY: No, of course not. He just gave them the blank cheque. He did not bother meeting with them. There was no struggle at all. He just gave up. Madam Speaker, we have a very clear situation. There have been long and drawn out meetings with the AMA and they have gone straight back to where they began in the first place - they want the blank cheque. Well, it is not there.

Mrs Carnell: Have a meeting.

MR BERRY: It is not there, Mrs Carnell. We have been to the Industrial Relations Commission and it has been made clear that the contracts offered to the AMA by the Government are fair. The Industrial Relations Commission recommended that they go back to work. I stand by that recommendation. It also recommended that they accept a dispute settling process. I stand by that as well. When they go back to work we can sort out their problems. You can go out and ask them to go back to work now.

MR KAINE: I seek leave, under standing order 46, to make a personal explanation.

MADAM SPEAKER: I give you leave.

MR KAINE: Thank you, Madam Speaker. During question time the Minister, I think twice, said that when Mr Humphries was the Minister for Health I gave him a blank cheque.

Mr Berry: No, I said that you patted him on the head when he gave them the blank cheque.

MR KAINE: The Speaker, I am sure, can check *Hansard* on this point, but the Minister said that I gave him a blank cheque. Madam Speaker, that is not true. What happened in 1990 was that there was a renegotiation of a pre-existing contract under which the VMOs were entitled by contract to certain remuneration. That contract has only just expired. At no time during the life of that contract did the Minister object to its conditions until now, when it comes up for renegotiation. It is proper for him to do that, since we are under renegotiation; but he has no mandate to question a valid contract entered into by the Government with a group of contractors.

Mr Berry: It was shonky. You gave up. You folded.

MR KAINE: Madam Speaker, I object to his words. There was nothing shonky about the contract. It was a legitimate, honest contract entered into between the Government and the doctors who were prepared to take those contracts. If the Minister is going to insist on referring to it being shonky, then I will take the matter further. I understand that that is a word that has been ruled out of order in this house before today. I do take exception to the Minister's assertion, at least twice, that I gave anybody a blank cheque. I did not. I refute that and I think the Minister should withdraw it.

Mr De Domenico: Madam Speaker, I raise a point of order. You have ruled previously that the use of the word "shonky" is out of order. I ask Mr Berry to withdraw that word "shonky".

MADAM SPEAKER: I believe that "shonky deal" was what I ruled out of order, but I will check on it. If members object - - -

Mr Kaine: We are splitting hairs now.

Mr Berry: No, I do not want to upset Pebbles. I will withdraw it.

MADAM SPEAKER: Thank you, Mr Berry. It is up to members to set their own standards.

Mr Berry: But I gave in too easily.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of the Financial Management of ACT Health -
Government Response

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (3.13): For the information of members, I present the Government's response to report No. 4 by the Standing Committee on Public Accounts on the "Review of the Financial Management of ACT Health". I move:

That the Assembly takes note of the paper.

I would like to respond to the Public Accounts Committee's report "Review of the Financial Management of ACT Health". Firstly, I would like to thank the committee for its comprehensive review of ACT Health's financial management and its acknowledgment that major improvements have been made since 1991. We have implemented a major program of financial management reform. The issues raised in the inquiry into the management of the health system by the late Mr Enfield have now been addressed. In response to the Enfield inquiry, the former board commissioned Arthur Andersen to advise it on improvements to the financial management procedures. Of the 135 recommendations arising from the inquiry, action has been commenced or completed on all of those which are the responsibility of Health. The program of financial management reform undertaken by my department is comprehensive and ongoing. It addresses much more than the matters raised in the special reports and inquiries.

Specific areas of improvement include the following: Better management structures have been put in place. The resource management role in Health has been strengthened through the appointment of a general manager, resources division. Responsibility for financial management of individual health services is now clearly with program managers responsible for service delivery. General managers of divisions have their own financial and administrative personnel. Health has improved its financial skills both through the recruitment of suitably qualified personnel and through extensive internal training. A number of staff with accounting qualifications have been recruited to key positions. There is now adequate documentation for financial procedures. For example, easy to use manuals for key financial procedures have been provided to all budget managers and administrative staff. There has also been extensive work done on documenting the activities of financial processing staff.

Computer systems for financial management have been significantly enhanced. Data communication links have been established to enable staff at all major health locations to have direct access to ACT Health's financial systems. A payroll costing package has been developed and implemented. This assists budget managers in managing their labour expenditure. ACT Health produces audited annual financial statements on an accrual basis, which is more comprehensive than is currently required for budget sector agencies. Such reporting is in line with current financial reforms by the Commonwealth, Territory and State governments. This information provides a thorough picture of ACT Health's finances. Health has received good audit reports in the three years since 1990-91. Although there was a minor technical qualification in 1991-92, the Auditor agreed with ACT Health's view and the relevant accounting standard has been amended. This good record has continued, with Health receiving an unqualified audit report in 1992-93.

Two recommendations were made by the committee. The first was that the Government include in the Appropriation Bill estimates of expenditure based on forecasted parameters for the forthcoming year. The Government's response, which I am tabling today, indicates that the Government has already complied with this recommendation. The annual Appropriation Bill considered by the Assembly is set at the latest parameter adjustments for programs. In the Health program, for example, funding is now factored into the Health funding base to provide for the estimated change in public/private patient mix. I should add at this point that those estimates are set against a fluctuating mix because there are indications that the trend downwards is faster than was first expected. That is not surprising, because I think there is falling confidence in the private health insurance industry and the private hospital sector because the public sector continues to provide better quality services and a better range of services than does the private sector. I think there is growing confidence in the public sector, and that is one of the problems for the private insurance business.

The second recommendation was that ACT Health, in its periodic reports to the Minister for Health and the Legislative Assembly, report expenditure against budget, taking into account parameters used in the original budget and clearly identifying changes in trends and resulting budgetary impacts. In response to this recommendation, the Government notes that ACT Health's quarterly reports already detail budget performance as well as information on activity and quality measures. Information on the parameters used in the budget for wage and salary increases and the level of public/private patients will be included in the future. Changes in trends are identified and monitored throughout the year in the quarterly reports, and the budgetary impact will be assessed in the context of the overall financial management of Health.

In conclusion, Madam Speaker, I believe that the committee's report reflects the sound progress made within ACT Health in improving its financial management under Labor. There is no question about that. ACT Health is participating in a cooperative venture with other ACT government agencies to purchase and implement a replacement financial system. Other significant initiatives already taken to further improve financial management are soon to be implemented. They are the expansion of cost attribution to service delivery functions and the implementation of a clinical costing system which will enable greatly improved costing of outputs. Overall, I believe that the committee's report reflects the excellent progress made within ACT Health in improving its financial management.

Debate (on motion by **Mrs Carnell**) adjourned.

PAPERS

MR BERRY (Deputy Chief Minister): For the information of members, I present the National Road Trauma Advisory Council Annual Report 1992; the Bruce Stadium Trust Financial Statements 1992-93, together with the Auditor-General's report; the Occupational Health and Safety Council Annual Report 1992-93; and the Department of the Environment, Land and Planning Annual Report 1992-93, Volume 2, including the financial statements together with the Auditor-General's report, and the financial statements 1992-93 for the Office of Sport and Recreation, together with the Auditor-General's report.

PUBLIC TRANSPORT SECTOR
Discussion of Matter of Public Importance

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

The need for micro-economic reform in Canberra's public transport sector, as recommended by the Federal Government's Industry Commission Report into Urban Transport and the ACTION Bus Benchmarking study prepared for the ACT Department of Urban Services.

MR DE DOMENICO (3.21): Madam Speaker, there is no doubt that everybody throughout the length and breadth of the ACT agrees that there is a need for micro-economic reform in Canberra's public transport sector. I think everybody in this house agrees. Not only has it been agreed to by bodies like the Industry Commission and the Government's own benchmarking study; I think that even the Minister for Urban Services, Mr Connolly, and others in this house agree and, in fact, have acted upon micro-economic reforms required in the area of urban transport. Having said that, Madam Speaker, on Thursday, 14 October, Mr Connolly dismissed the findings of the Industry Commission report on urban transport which said that reform at ACTION was too slow. He said:

I challenge the Industry Commission to show any jurisdiction in Australia where a public transport authority has received a 20 per cent reduction in costs over three years.

In New South Wales, Madam Speaker, projected operating subsidies will decline by 24.2 per cent for the New South Wales State Rail Authority in just one year. In New South Wales the State Transit Authority's operating costs are expected to decline by \$70m in real terms from 1988 to 1993 - five years - while projections show an \$80m decline by 1995-96. In Victoria the Minister for Public Transport, Alan Brown, has announced savings of \$20m annually through contracting out. Not only is contracting out saving money; it is making money because areas like canteens and refreshment rooms in Victoria, for example, will make a profit of \$400,000. The information from New South Wales was supplied to me by Mr Bruce Baird and it says:

State Transit aims to further progress in 1993-1994 towards full commercialisation.

So Mr Baird, far from disagreeing with the Industry Commission's main findings, is already implementing the suggested changes, unlike other areas and other jurisdictions.

Madam Speaker, from time to time when people stand up and talk about the need for micro-economic reform in ACTION bus services they can be accused automatically of attacking bus drivers or attacking all sorts of other workers. As people may know, from time to time even members of the Opposition talk to bus drivers. In fact, some bus drivers take great pleasure in talking to members of the Opposition in preference to members from other parties in this Assembly.

Let me say straight out for the record that ACTION bus drivers help Canberra people with lost children or lost property and give assistance with directions and shopping. Drivers are friendly most of the time, and they are hard working. Let me put that on the public record to make sure that there is no accusation from the Minister or anybody else that we are here only to kick the heads of bus drivers or anybody else.

What I would say to some bus drivers - I stress the word "some" - is that they should realise that unrealistic working conditions are costing jobs for some of their mates who are out of work. That is one statement that I can make and will continue to make. It seems to me that some drivers can drive for only five hours in an eight-hour shift. Is he or she willing to learn a useful skill and be usefully employed during the time that a driver currently, perhaps, is playing billiards or tennis? Could he or she then be usefully employed in the workshop, around the grounds or cleaning bus-shelters? I think the answer to that is, "Why not?". Why cannot there be this multiskilling? I note that from time to time the Minister does talk about the potential of multiskilling. Other people also talk about that point.

Madam Speaker, the \$63m government subsidy to ACTION supports the highest bus operating costs in the country. The Travers Morgan report, the benchmarking study that I have referred to, told the Government what we already knew and what the Government knew as well; namely, that these costs are due, in the main, to things like excess staffing levels, high unit staff costs, poor productivity, constraints on the driver award, low driver productivity, high driver pay, overstaffing and high staff costs in administration, high capital charges from a new bus fleet, and the high level of other assets. That comes directly out of the Travers Morgan report. The report recommended immediately implementing cost savings of some \$15m per annum, saying that experience elsewhere in Australia shows that this is quite reasonable and achievable. The report also said that everybody else who was compared runs their buses for less and, perhaps in certain circumstances, better than we do in the ACT. A saving of \$15m in one year makes the Government's boast of a projected \$10m in three years look slightly wimpy.

The subsidy to ACTION buses is so large that, if the Government wished, it could use it to buy every ACTION bus passenger a car. That might cause some people to stop and think. It made me stop and think when I heard it. I see that the Minister is frowning. I frowned as well. Let us look at it realistically. It is a simplistic analogy.

Mr Cornwell: No, he is trying to work out what you mean.

Mr Connolly: I am always trying to work out what Mr De Domenico means.

MR DE DOMENICO: Listen to this, Minister. It is a simplistic analogy. There are 300,000 people in Canberra and between 5 per cent and 7 per cent of commuters catch buses. How many people catch buses depends on your mathematics, Mr Minister, but let us be generous and say that 10 per cent of the population regularly catches buses. That \$63m divided by 30,000 is \$2,100, which is enough to buy a second-hand car. Remember that a lot of ACTION's passengers are schoolchildren, so you could probably spend more.

There would be no continuing cost. Perhaps some people might think that is a ridiculous situation, but it is not as ridiculous as a continuation of massive subsidies next year, as I said, to the tune of \$63m.

Mr Lamont: So that is two-thirds of the one-sixth of the three-fifths of the five-eighths - - -

MR DE DOMENICO: The Liberal Party has said, and it will continue to say, notwithstanding the stupid interjections by Mr Lamont - - -

MR DEPUTY SPEAKER: There will be one-eighth less in the chamber if the interjections continue.

MR DE DOMENICO: Mr Lamont is responsible for implementing some of the most archaic work practices known to man and he comes into this debate late and pretends to know all about it. I look forward to his contribution after other people have spoken.

Mr Lamont: So you should. Squirm in your seat. I am sorry; you are standing.

MR DE DOMENICO: I can take the personal abuse as well, Mr Lamont; do not worry. The rates could be lowered next year because the huge, inefficient subsidy would not have to be funded from the ratepayers in Canberra. It is a ridiculous situation, to say the least. It is just about as ridiculous, Mr Deputy Speaker, as the Government's defence of the inefficiencies in ACTION; as ridiculous as the ACTION subsidy; as ridiculous as the tennis courts at Tuggeranong depot, or the union regulations which mean that drivers may drive for only 50 per cent or 60 per cent of their shift; as ridiculous, perhaps, as the cost recovery of ACTION, the lowest in Australia, or debt servicing fees ACTION incurs, which are 50 per cent of all capital funds; or as ridiculous as the cost of a bus-shelter, which is between \$8,000 and \$10,000.

It is interesting to note that a friend of mine told me that they recently bought a transportable home, including kitchen, bedroom, bathroom, toilet, shower, lounge room, hot-water service and heaters, for \$2,000 less than it costs to build an ACTION bus-shelter. Some people might say that that is a ridiculous comparison, but it is true. Maybe ACTION bus-shelters could have running hot water, toilets and showers, and even the kitchen sink, for the same amount of money.

How ridiculous is the expenditure per employee, Mr Deputy Speaker, which is one of the highest in Australia. The Industry Commission has weighed into this debate with an independent report which recommends opening up the public transport service and infrastructure provision to new players.

Mr Lamont: Aha, aha!

MR DE DOMENICO: This is in the Industry Commission report, Mr Lamont, which was commissioned by a Federal Labor Government. This is in line with the new management philosophy being adopted around the world, Mr Deputy Speaker, which sees the role of government as steering and the role of private enterprise as rowing. For the Minister or the Government or anybody else to write off the Industry Commission report as more "corporatise and deregulate" is simplistic, to say the least. It demonstrates the Government's lack of understanding of the issues which challenge it. It clearly defines the

philosophical shackles which will chain this Government to conservative ways of managing essential services. The Follett Government's reaction to the Industry Commission is old fashioned and conservative. In fact it is a scared reaction. The Follett Government is unable to grasp new concepts of management efficiency, and its lack of vision is costing every Canberra ratepayer hundreds and thousands of dollars.

Contracting out in London, England, where regulation was separated from service delivery and service delivery opened to competition, resulted in huge savings and better service. I have spoken before about the savings in service in Victoria and New South Wales. A publicly owned company carved out of the old monopoly was awarded contracts for nearly 50 per cent of all routes at costs some 20 per cent lower than the public monopoly level before the introduction of competitive tendering. For example, the Minister informed me in reply to a question on notice that the utilisation of the government owned Totalcare mini-bus fleet is 25 per cent. We own a fleet of mini-buses, Mr Deputy Speaker, that are hardly ever used. Why not use the Totalcare mini-buses in the 75 per cent of time that they are not used for late runs on routes where there are only a few passengers? Then there is the November Auditor-General's report - once again, not something done by the Liberal Party - which found that 90 per cent of ACTION bus drivers and workshop staff earned more than \$7,600 each in overtime payments last year. The Auditor-General went on to say that disability allowances in ACTION workshops worth \$440,000 a year were paid regardless of whether the employee worked in conditions that warranted the payment of the allowance. The report again confirmed what we already knew - that ACTION buses must be reformed.

I am going to discuss just one page of the recommendations from the Industry Commission report. It was commissioned by the Labor Government. Before I do that I want to point out that it is not only the Industry Commission, Travers Morgan and the Auditor-General that talk about reforms. We also know, for example, that the Transport Workers Union has called for reform, and so it should.

Mr Lamont: Micro-economic reform.

MR DE DOMENICO: Micro-economic reform. Thank you, Mr Lamont. The Transport Workers Union is so concerned about the lack of micro-economic reform that I believe that it has put on the table for discussion some \$6.5m worth of micro-economic reform. Mr Connolly listens from time to time, but perhaps other people do not listen. The Transport Workers Union is so concerned about the slow pace of micro-economic reform, and especially in enterprise bargaining levels, that it has pulled out of the CCG. On 1 November the Transport Workers Union wrote to the Minister for Industrial Relations, Mr Berry. I quote from its letter dated 1 November, signed by Peter Schulz:

Dear Minister

The Transport Workers' Union of Australia has long been concerned about the bureaucratic nature of enterprise bargaining within the Australian Capital Territory Government Service. The processes set in place for the achievement of productivity, efficiency and resultant wage outcomes are cumbersome, time consuming and relegate the pace of reform to that of the slowest participant.

It went on along similar lines. Here we have the major union involved in the ACTION bus network writing to the Minister for Industrial Relations and saying that the pace of micro-economic reform, especially at the enterprise bargaining level, is cumbersome at best and perhaps non-existent at worst. Once again, it is not just the Liberal Party that has been advocating micro-economic reform; it is not just the Industry Commission; it is not just reports commissioned by this Government. Unions involved within the industry are saying loudly and clearly to this Government, "Hey, listen, we want to talk about micro-economic reforms. Here we have about \$6.5m worth of micro-economic reforms".

Mr Lamont: No, it is more than that.

MR DE DOMENICO: "It is more than that", Mr Lamont says. They are saying, "We have millions and millions of dollars worth of micro-economic reforms. Please, Industrial Relations Minister, will you make sure that your bureaucrats or whoever pull their fingers out so that we can go ahead?".

Mr Deputy Speaker, as I said, I will comment on one page of the Industry Commission's report, a report commissioned by the Federal Labor Government. It says: "Make public transport agencies statutory corporations". Mr Deputy Speaker, you, as well as every other member of this Assembly, will realise that just the other day Mr Connolly stood and told us how wonderful ACTEW is; that it supplied the cheapest electricity and water in Australia and it was run efficiently and well. And so it is. It is very well run and it is very efficient in comparison to similar authorities interstate and overseas. What sort of structure has ACTEW that gives it the ability to achieve these sorts of results that we boast about in the Assembly? I will tell you what the structure is. Surprise, surprise; it is a statutory authority.

Mr Connolly: But you want to change that to a corporatised body.

MR DE DOMENICO: I am glad that Mr Connolly interjected. You can predict Mr Connolly's interjections. If he reads other reports that have been commissioned from time to time, he will also know that ACTEW can be even more efficient than it is if it is corporatised.

Mr Lamont: If you sell them off. That is exactly what your agenda is. Sell them off.

MR DE DOMENICO: Mr Lamont's definition of corporatising is selling off. We all know of Mr Lamont's ignorance in these areas anyway. Every time he opens his mouth in this place he manifests that ignorance. We know that statutory authorities do run things very well. The Chief Minister seems to think that statutory authorities are good things as well because, notwithstanding the fact that there was some speculation that ACTEW would not be retained as a statutory authority, she changed her mind and the Government's mind. Well done, Chief Minister. She said in a statement two or three weeks ago that, in fact, ACTEW would remain a statutory authority. That is good. Mr Deputy Speaker, we suggest things like board members being appointed, and things that have been said time and time again.

In summary, Mr Deputy Speaker, it is not just the Opposition that has been calling for micro-economic reforms; it is not just the Industry Commission report commissioned by the Federal Labor Government, or the Travers Morgan report commissioned by this Government. Nor is it just the Transport Workers Union. Everybody in this town realises, or ought to realise, that there are millions and millions of dollars of savings to be made at ACTION buses. People should get around a table and talk about those savings. I think that the Minister will have the support of the Opposition and all other members in the house if he does continue to make these savings. I suggest to the Minister that, if he is being manacled and shackled by Mr Berry, the Industrial Relations Minister, as we are told by the Transport Workers Union, it is up to him to make the appropriate changes.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (3.36): Mr De Domenico keeps coming into this place and talking about ACTION buses. I would have thought we had talked about it often enough for him to learn something, but that seems not to be the case. His opening remark was that everybody is talking about the need for micro-economic reform in public transport. Well, on that, he is right. The difference, though, is that this Labor Government is acting and delivering on reform in public transport, not just blathering about it.

I will not go to figures of interests associated with the Labor Party; I will go to Access Economics, which does a lot of consultancy work for the Liberal Party. They are the economic consultants that the Liberal Party trot out whenever they need to get an analysis of a Treasury view. In some work that was done and published in the *Advance Bank Trends* magazine in July of 1992 there was a very informative graph which I have referred to before but which I am happy to refer to again and to table. It showed ACTION's per capita deficit and it showed a remarkable increase to the record worst ever performance of ACTION under the period of the Liberal Government. In the final analysis it is the Treasurer who keeps Ministers honest, who keeps them working on budgetary matters. Under Mr Kaine's stewardship, then your Chief Minister and now your Treasury spokesperson, ACTION achieved its record level of inefficiency. Congratulations, Liberals; you should be proud of your record on micro-economic reform!

Mr Deputy Speaker, rather than blathering about extremist rhetoric and a track record of inattention and non-performance on reform, this Labor Government has got on with the task of addressing the underlying problems within ACTION. We acknowledge that we have to move in the direction of reform in ACTION. ACTION is not, however, the basket case that the Opposition spokesperson would have us believe. My challenge to compare real performance on reducing subsidies rather than rhetoric and what we plan to do in public transport reform remains valid.

Mr De Domenico quoted some bold figures of what it is hoped to have achieved in other States, but we are already on target. We already have achieved significant savings on the ACTION operating deficit. We achieved \$2m and more last year. We achieved \$300,000 more than we were targeted for. This year our budget figures are locked in for a reduction of \$4m. So we are well and truly on target. The equivalent of a \$10m subsidy reduction in the ACT for other States would be far in advance of what they are achieving in comparison with the ACT's \$49m deficit in 1991-92.

We must talk about the deficit. Mr De Domenico likes to plot together all the costs of ACTION, including capital works, and call that the deficit; but the deficit is the cost of recurrent operations, the extent to which there is a subsidy for recurrent operations, and that figure for 1991-92 of \$49m compares to \$923m in Victoria and \$1,125m in New South Wales. That equates to a deficit per household of \$540 in the ACT, \$580 in New South Wales and \$640 in Victoria. So our operating deficits per household are lower in this Territory than in Victoria and New South Wales. If those States were to achieve 20 per cent reductions we would be talking about a \$184m saving for Victoria and a \$225m saving for New South Wales. They are not achieving those figures.

There is a lot of bold rhetoric, and I note Mr Brown's projections in Victoria about what he is going to do; but I also read regularly in the media about the complete fiasco they have got into with their tram system. They are trying to flog off and get rid of certain trams, and they have the union, heritage groups and everybody else opposing that. As is often the case with a Liberal government, there is lots of bluster, there is lots of talk, but they are not actually getting very far. Mr Deputy Speaker, as I say, the level of recurrent deficit and the level of recurrent subsidy for ACTION is too high and we are reducing it, but it is running lower at the moment than Victoria or New South Wales. Our targeted saving, that \$10m or 20 per cent, is far in advance of the savings that are being achieved elsewhere.

Mr Deputy Speaker, we also constantly hear from the Liberal Party this view that nobody uses the buses. In fact, figures from both the Industry Commission report and a report which I find rather more useful than the Industry Commission report because it is a purely statistical analysis and has no ideological baggage accompanying it - it draws no conclusion; it just reports the facts - that is, the performance indicators for government trading enterprises that was published in July of this year, the red book, show that boardings per head of population for the ACTION bus system run at 83.9 in the ACT. That is the second highest, compared to New South Wales. It is higher than Victoria. One may be surprised at that, but it shows that in fact there is a high level of usage here. The ratepayer survey that was conducted some little time ago showed, I think, some 32 per cent of households where ACTION buses had been used.

We do not have as high a rate of commuter use as we would like. The Government is addressing that and is encouraging commuter usage by its strategy of increasing parking charges at a higher rate than increases in fare levels, and expanding on innovations like three for free and the commuter express services that were introduced late last year in Tuggeranong and are proving remarkably successful. We would like to get a higher rate of commuter use, but a lot of people other than commuters use ACTION buses.

One area, Mr Deputy Speaker, where it is clear that we are lagging the field, where our results are the worst, is fare box return, the level to which we get return through the fare box. The average fare per boarding in the ACT is 70c. Actually, it is not the worst. Western Australia and Victoria are slightly worse, but in the other States the average seems to be around \$1. That tells us, Mr Deputy Speaker, that our fares are too low. During the budget period, what did the Opposition do? It put out a press release saying, "Shock, horror, scandal! ACTION fares are going up; this is a terrible thing; the Government is to be condemned".

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

MR CONNOLLY: You put out your press releases earlier on, and you come in here and you make your speeches, as you did today, saying, "ACTION is terribly inefficient; it does not charge enough for fares", and then, when the Government moves and increases ACTION fares, you say, "Shock, horror! You put your fares up". It is this shallow populism that marks the Opposition. You attack us for not having our fares high enough, and then you attack us for raising fares.

Mr Deputy Speaker, I have been critical, and remain critical, of the report by the Industry Commission on public transport. I have said in this place and elsewhere that I believe that the Industry Commission approaches its task with ideological blinkers. It approaches a task with a foregone outcome that leads to the conclusion that privatisation and corporatisation is always the answer. A critique of the Industry Commission which makes this point very effectively was written by Paul Mees from the faculty of environmental planning at the University of Melbourne. It was published in the *Canberra Times* on 3 November 1993. Mr Mees makes the point that if you look at the Industry Commission report and its annexures, if you look at the raw material on which the Industry Commission purportedly based its findings, it contains analyses of very efficient, publicly owned and publicly operated public transport models in Toronto, Washington DC, Vancouver, Zurich and Munich.

However, Mr Deputy Speaker, when you go to the report, it also contains an analysis of London public transport, which has undergone a process of corporatisation and privatisation. The raw material shows that you have, in London Transport, an organisation that has shown considerable improvements in efficiency over recent years, a privately operated public transport provider. It shows organisations which have shown marked improvements in efficiency, namely, publicly owned, publicly operated public transport companies, public transport arms of government, in Toronto, Washington, Vancouver, Zurich and Munich. However, when it comes to its conclusion, it ignores the evidence which shows efficient publicly owned and operated systems and says, "The evidence shows that the only way to be efficient is to go down the path of London Transport". That is a severe methodological flaw which undermines the objectivity of the report. It finds efficient and inefficient public and private public transport providers. It draws the conclusion that the only way to become more efficient is to privatise and corporatise. It ignores the experience, which it has reported on in its annexures, of efficient and effective publicly owned and publicly operated public transport operations.

The Industry Commission's glib dismissal of ACTION's program for achieving a 20 per cent reduction in subsidy, I think, again undermines the value of its report. They simply say, "You must do better; you must do faster". As I have pointed out, the level of savings that we are achieving is dramatic. When compared with levels that are being achieved in other States it stands out. To compare with our \$10m reduction, New South Wales would have to pull a reduction of \$225m and Victoria would have to pull a reduction of \$184m. I would like to see what happens over the coming years. I have some scepticism as to whether some of these bold statements of the Victorian Transport Minister will be achieved.

You achieve change in the public transport sector and in the industrial context through negotiation, discussion and innovation, not through confrontation. That is what marks the ACT Government's approach in stark contrast to the Liberal Party's process. Our own report indicates that we need to achieve a saving of \$15m on the total budget. There is a significant difference there, Mr Deputy Speaker, because what we said in our original budget strategy was that we were intending to achieve \$10m off the recurrent subsidy - in effect, \$10m off \$49m.

Mrs Carnell: Over three years.

MR CONNOLLY: Over three years. We are in front of the target on that. What the Travers Morgan report indicates is that we should be achieving \$15m off a figure in the order of \$80m-odd, which is our recurrent cost, our capital cost and all of the debt servicing costs, some of which have never been properly accounted for in the past. I acknowledge that we will go for that target, but we are on track for the recurrent level of saving. We need to achieve significant further savings on capital. As I have indicated, the current round of new bus acquisitions is likely to be the last for quite some time. I publicly indicated that we will look very severely at any new bus purchases. We will concentrate more of our efforts on refurbishing and extending the life of the existing fleet.

We have a problem, identified by Travers Morgan, in the workshop. That is not a problem that this Government created; it is not a problem that the Alliance Government created. It is a problem that was allowed to accumulate over 15 or 20 years. We have created a workshop infrastructure which is vastly in excess of the requirements of the current ACT Government's operations. We cannot just race off and sack people. People were recruited and brought into that system on certain premises. What we need to do is work out ways of better utilising people, gradually going through an orderly process of reducing that oversupply of workshop expertise, which runs to senior engineer oversupply as much as it does to mechanics. It was apparent, through the Auditor-General's inquiry, which again we initiated - we pulled this benchmark study on ourselves to find out the level of efficiency or otherwise - that there was an overuse of overtime in the workshops, and an unnecessary use of overtime in the workshops. The Government acted and that overtime was removed.

Mr Deputy Speaker, we are identifying these problems in the workshop area. The path for the future is clearly a combination of things. One is the introduction of part-time drivers, which is something we are discussing with the Transport Workers Union at the moment. Another is a process of further multiskilling, which again we are discussing with the Transport Workers Union at the moment. We can easily identify at an early stage a number of ACTION employees who do drive buses as part of their ordinary duties but not on the road. They obviously are the first people to use for multiskilling. I am talking there of washers, cleaners and tyre changers - people who do that sort of work.

The obvious next step - we have floated this with both unions - is to look at multiskilling some of the mechanics into the driver ranks. I would look, when we next advertise for drivers, at having a restricted process of recruitment by first advertising for drivers within the organisation, within ACTION. We will first look to recruit from within ACTION so that existing staff, if they are interested and qualify for the job, have the opportunity of moving across.

Mr Deputy Speaker, we have a range of strategies in place, and we have the runs on the board. We are the only Government that has reduced the cost of public transport in this Territory.

Mr De Domenico: Will Mr Berry be happy with all these negotiations you are having with the TWU?

MR CONNOLLY: When you people were in government you conspicuously failed to deliver. Your then leader, possibly your future leader, Mr Kaine, was the Treasurer and Chief Minister. He currently is your economics spokesperson because it seems that that job eludes the Leader of the Opposition. He delivered the highest ever ACTION subsidy. This Government is on track with a budget reduction strategy for ACTION that will give us a level of subsidy that is comparable with the Australian average. We have the runs on the board.

MR WESTENDE (3.51): Madam Speaker, I would like to follow on from Mr De Domenico's line. Let us take a hard look at some of the facts about Canberra's public transport system. Here I interpose for a minute. The Minister quoted some figures from *Trends* and the red book, but those figures are over 12 months old. Minister, 1992 is history. We should be looking to the future. New South Wales and Victoria are acting; here we are talking about it. The Minister quoted a figure on trams in Victoria. Victoria, because of the past, has over 100 more trams than they need. Maybe we have 100 more buses than we need, because the Travers Morgan report says, on page 7, that one of the significant factors of cost is ACTION's one driver, one bus practice. Maybe, if we could get rid of that practice, we might be able to save some buses.

With a population of about 300,000, Canberra households, of which there are 103,000, subsidise ACTION, on my calculations, something like \$700 a year, not the \$580 that the Minister quoted. During the 1992-93 financial year ACTION, on average, travelled 42,294 kilometres per bus, and carried something in the order of 24 million people. Once again, to me that does not equate with the figures that the Minister uses in the equation of 24 million people, and the deficit during the 1992-93 financial year of some \$50m.

I do not think it is just a matter of drivers, technicians or other people. We have to look at some of the practices that they use. I am told that when a bus had a flat tyre it used to be towed back to the workshop. Now, because of so-called cost savings, the driver is instructed to drive back to the depot, ruining the casing, ruining the tube and, in some cases, even the rim, at a total cost of some \$700. To send out a tow truck would have cost about \$100. It is the accumulation of those sorts of acts that has given ACTION the cost structure that it has.

I have some experience in business matters and in my opinion it would be best to compartmentalise ACTION. ACTEW has divided Canberra into regions - north, south and so on. It works very well. Not only does each region look after its own affairs but they strive against one another competitively and therefore achieve better results. Let us combine all the different sections of ACTION - for example, mechanical, maintenance, stores, drivers and administration - split them up into geographical areas and give them targets. Give them incentives. Consider even management buy-out and profit sharing; maybe even give them part ownership as an additional incentive. It was done by the MET in Victoria only some eight or nine months ago and it works extremely well. You would be surprised at the difference it makes.

As we all know, I am associated with a company where we have just issued 20 per cent of our shares to staff. You would be surprised at the productivity improvement that has resulted, and quality control has improved beyond all expectations. I dare say that it has made the company one of the most efficient in the region, if not the most efficient in the country. That is the sort of innovation that we need from the Minister when he looks at ACTION buses - not just one thing, but a multiplicity of things. It can be done; but one has to be daring, one has to be innovative, and, most of all, one has to share trust with one's employees. Come on, Minister, be daring; give it a go. That is how problems are solved and new deals are created.

Madam Speaker, throughout Australia the trend is to provide clean, safe, reliable, efficient and cost-effective public transport. Let us pause for a minute to compare other systems which are operating successfully in some of our major cities throughout Australia. For instance, the Western Australian Government recently announced plans to corporatise, over a three-year period, its public transport network, TransPerth, and to open it up to public and private operators of the metropolitan transport services - something that Mr Brown did in Victoria with the MET buses. In Victoria, corporatisation of the public transport corporation is in progress. A framework has been established to enable savings of \$245m per year to be achieved by the year 1995. By 1996 the total cumulative savings spelt out in real dollars means an average saving of about \$429 per Victorian household. This is being achieved through the contracting out of buses to bus operators, such as the National Bus Co. and, as I said, the MET. The union, in conjunction with the Government, has created a new company that runs the MET buses as a private enterprise business. The contracting out of bus services places the onus fairly and squarely on the bus operators to provide a service that customers want and to service more passengers.

In New South Wales the State Transit Authority operates government bus and ferry services in defined areas of Sydney and Newcastle. In recent years the Government funding rationale for State Transit has been substantially revised and has brought about substantial changes in operating conditions. The State Transit Authority will receive approximately \$163.8m in government funding. That is for a city of four million people. Compare that with the \$50m for a city of 300,000. This was a reduction from \$237m the previous year. Over the past five years subsidy payments to the State Transit Authority have fallen significantly - in real terms, by \$75m per annum.

In South Australia and Tasmania, the transport authorities are doing similar things. In Queensland the State run rail system will be corporatised by June 1995. Let us look at our cousins in New Zealand. They are just getting it right and they are way ahead of us. With a population of just under four million, for the current financial year the overall subsidy by the New Zealand Government for its public transport system, which includes trains, buses and ferries, is \$102m, as against \$50m for the ACT with 300,000 people.

Apart from peak-hour times, ACTION buses during the day would probably carry only a handful of people. During the late hours of the evening you are lucky if you spy even one passenger on ACTION buses. The introduction of mini-buses in cities and towns throughout Britain and Europe has become an integral part of the transport system, and in most cases government run systems are rapidly being replaced. I would recommend some innovative ideas to the Minister, as I have previously outlined.

MR LAMONT (4.01): Madam Speaker, I was prepared to let Mr Westende continue.

Mr Westende: I had a few pages to go.

MR LAMONT: That is fine. I would be prepared to let you continue. It would make as much sense as the rest of what you have said this afternoon. I say that because you are wrong in fact, but not in philosophy. I will return to that in a moment. You are wrong in fact. You made a point about it costing \$700 to go out to change a tyre on an ACTION bus. That is absolutely ridiculous. You should sack whoever is giving you your information. Get rid of them. They are leading you down the garden path. That is not the case.

Mr De Domenico: No, it is \$698.

MR LAMONT: That is not the case. It is obvious that you have no understanding at all of the way ACTION operates. But I can appreciate that.

The first part of the topic of the MPI this afternoon refers to "The need for micro-economic reform in Canberra's public transport sector". This is the same bleat that we have heard from Mr De Domenico since Mr De Domenico was elected. This is the first thing. Let us have a look at the definitions and at how the definitions change. The definition changes when you look at what micro-economic reform means on this side of the house and what it means in a section of that side of the house. You could hear it coming through quite clearly in every word that Mr De Domenico said and, indeed, in the thrust of what Mr Westende said. Micro-economic reform to the Liberals is, "Sell it off to mates". It means that you privatise the profitable parts of public transport and you socialise the losses; you sell off any part of the ACT transport system that has an opportunity to cover or better its operational cost. Let us look at 333 services. You would look at the intertown express service and you would sell it off. That is their idea of micro-economic reform. In the regional sense that cost would be borne by the rest of the taxpayers, but their people would make a lovely little profit. That is what micro-economic reform means on that side of the house.

On that side of the house they put up as the shining light of micro-economic reform Jeff Kennett in Victoria. What is Mr Kennett's approach to micro-economic reform?

Mr De Domenico: Have a look at what Joan Kirner did.

MADAM SPEAKER: Order!

MR LAMONT: What happens is that you privatise the profitable parts of whatever the organisation happens to be and you keep the rest.

Mr De Domenico: Talk to your mate Mr DiGregorio in Victoria. See what he has to say.

MADAM SPEAKER: Order!

MR LAMONT: Tony De Do-Kennett over here has adopted an attitude and a statistical analysis as to how things have changed in the Land of Nod to the south. Let us look at what has happened in the Land of Nod to the south. After this magnificent possible economic reform in Victoria what is going to happen there is that they will reduce by \$540 per head the actual deficit being paid for their public transport system. That sounds like a magnificent amount of money. It still means that they will be paying, on average, \$350 to \$450 a head more than what that subsidy means in the ACT. That is the simple fact of the micro-economic reform in Victoria. But what will happen in Victoria is that the social justice objectives of the public transport system will be the first thing to go. That is not what has happened in the ACT, and it is not what will happen under this Government.

Let me turn to the industrial aspects of micro-economic reform, not just the lovely dry argument that John Hewson talks about. What has happened, Madam Speaker, is that on this side of the house we are proposing - - -

Mr De Domenico: Let us talk about Mr Berry's industrial record.

MADAM SPEAKER: Order, Mr De Domenico!

MR LAMONT: Despite the fact that from time to time differences will arise between the parties as to how to proceed - - -

Mr De Domenico: Like the stop-work meeting this Friday.

MR LAMONT: If the yapper over here can just settle down for a minute he will get to understand what the proper micro-economic reform process is all about.

Mr De Domenico: Not from you.

MR LAMONT: He talked about his experience. Mr Kaine has attested on my behalf in this Assembly. He spoke in glowing terms about my capacity and my involvement in industrial relations when he was the Chief Minister. Far be it from me to try to say of the silver fox that he did not have the right approach at that time. Madam Speaker, most of the people involved - - -

Mr De Domenico: Talk about Mr Berry's approach to industrial relations. He is the Minister. We would rather have you as Minister, actually.

MADAM SPEAKER: Order! Mr De Domenico, I do not think Mr Lamont needs any of your assistance.

MR LAMONT: Or any of his advice, Madam Speaker. Most of the people on this side of the house have forgotten more about industrial relations than Mr De Domenico will ever learn. When Mr De Domenico stands up as the great guru of industrial relations processes he has to be treated with more than the one grain of salt. On this side of the house, when we are talking about micro-economic reform, there is a cooperative approach. That does not mean to say that from time to time there will be - - -

Mr De Domenico: Why is there a stop-work meeting this Friday?

MR LAMONT: Because - - -

Mr De Domenico: Why? Tell us. You are the ex-secretary of the TWU. You should know.

MR LAMONT: Mr De Domenico, if you would stop yapping for a moment, I will. You will not understand it, but I will tell you. You simply will not understand it; nevertheless, I will tell you. In terms of the cooperative approach to micro-economic reform, a scheme of arrangements has been put into place. From time to time there will be disputes over that process, as there was, let us say, in the case of the Priorities Review Board report when there were disputes over the process and so forth. We negotiated the resolution to that with a reasonable Chief Minister, as he then was, who, as I have said in this house before, has spoken in glowing terms about the appropriateness of those processes. How can I, therefore, undermine his credibility and understanding of industrial relations when on that occasion he was so right?

Madam Speaker, the cooperative approach to industrial relations that we are adopting and hoping to implement also allows for differences between the parties. The difference between us is that we are prepared to allow those differences to run their course. I understand that this week, following a range of negotiations, the Transport Workers Union will be putting a scheme of arrangements to their members for endorsement. Mr De Domenico, this may surprise you, but that is the way that the Transport Workers Union works. It has a negotiation group which discusses things with the employer, and it goes back to the membership and gets their imprimatur. That may be very strange for you. I know that you do not understand the way these processes work - that is pretty obvious - but this is part of the relationship which you must develop to allow micro-economic reform to work. Madam Speaker, there will be differences - differences will arise, without question - but there are processes in place to resolve those.

Mr De Domenico: Like pulling the plug on the CCG.

MR LAMONT: I put it to you this way: Whether it is the Transport Workers Union, the CFMEU, the Metal Workers Union or any of the others, they are prepared to have differences with the Government, they are prepared to have differences about process, they are prepared to continue the negotiations, and they are prepared to go through the industrial relations process. Unlike you and your mates the doctors, these people are prepared to go through with a properly structured process. What Mr De Domenico fails to understand is that it is that relationship that will deliver the types of micro-economic reform that Mr De Domenico knows the rhetoric for but has no chance in hell of ever being able to achieve himself. He understands that he will be in opposition perennially; so he just loves to bleat.

What Mr De Domenico misunderstands is the difference between the concepts of micro-economic reform that are being delivered on this side of the house and the rhetoric behind his own fairly dry Liberalist philosophy. Differences do arise between a Labor government, whether it is this one or any other, and the trade unions. It is a fact. Unions and Labor governments are prepared to have those

differences, and do so quite publicly; but at the end of the day they resolve them in a fashion which is to the advantage not only of the people working within the enterprise concerned but ultimately of all people in the ACT.

One of the things that Mr De Domenico's dry arguments and rhetoric failed to address, as did Mr Westende, is the question of social justice that applies as far as public transport systems are concerned. When you look at the type of analysis that both of them tried to put up this afternoon as justification for saying that the Government has not gone far enough, both of them fail that essential test. All they are interested in is seeing one side of the ledger - absolutely no services and, allegedly, a healthier budget position. On the other side of the ledger, what is being delivered by this Government, in cooperation with the unions, is micro-economic reform.

MADAM SPEAKER: Order! Your time has expired, Mr Lamont.

Mr Lamont: I will take an extension, Mr De Domenico, if you would like some more. Have you had enough? Do you give in?

Mr Kaine: No. You have used up enough time.

MADAM SPEAKER: Order, Mr Lamont!

Mr Lamont: Madam Speaker, I think we have won the argument. If Mrs Carnell now wishes to mop up, that is fine.

MRS CARNELL (Leader of the Opposition) (4.12): Madam Speaker, I was absolutely fascinated by Mr Lamont's absolute diatribe on this whole thing. Unfortunately, he forgot to read what the matter of public importance debate is about. Interestingly, it is the need for micro-economic reform in Canberra's public transport sector. We believed that the Government would have no problems whatsoever in agreeing with this stand because we have understood - - -

Mr Lamont: You want to sell it off.

MRS CARNELL: No, no; the need for micro-economic reform in Canberra's public transport system. We believed, Madam Speaker, that in putting this forward today we would end up with a very positive and directional debate on something that both sides of this house actually agree with.

Mr Lamont: Mrs Carnell, your policy has no direction. It is outwards.

MRS CARNELL: No, no; we are not talking about that. We are talking about micro-economic reform in Canberra's public transport system, something that we all support. What we support, and what I am sure that those who are sensible on your side of the house support, is producing a public transport system that has lower costs and better outputs and costs the taxpayer or the ratepayer of the ACT less. That is what micro-economic reform is about, Mr Lamont. Surprise, surprise!

I think we are all interested in looking at one of the studies that are mentioned in the MPI topic for today, and that is the ACTION bus benchmarking study. I understand that Mr Connolly was quite involved with it. I understand that it was prepared at the behest of ACTION and the Department of Urban Services.

It was interesting to read the report. As Mr De Domenico and, I think, Mr Westende have said already, it was interesting to see just how much higher the costs of ACTION buses really are in the ACT. In fact, the costs were about double those of the five private bus operators that this survey looked at. It said, as Mr Connolly said, that if we were to achieve even the average public transport level of cost we would save some \$15m per annum, or 19 per cent. That does not take into account the fact that the ACT should actually be easier to service, not harder to service.

Mr Lamont: That is not what the Industry Commission report shows.

Mr De Domenico: This is not the commission's report. This is your report.

MRS CARNELL: This is this one. It also said that if ACTION buses could reduce their costs level to the private bus operator levels there would be a reduction of \$38m per annum, or 47 per cent. That is \$38m per annum at a time when this Government believes that it is quite okay to cut 80 teacher positions for \$1.5m per annum, or to let our public hospital system grind to a halt for \$500,000. It is absolutely remarkable.

What we have here, Madam Speaker, is categorical evidence that we have a public transport system that is operating at a substantially higher cost than similar transport systems. I think Mr Connolly was very effective, as he often is, in trying to muddy the water as to what this debate is about. He was comparing costs in the ACT with the whole of New South Wales and Victoria rather than with similar sized cities or bus services. The benchmarking study attempted to make comparisons, as far as is possible, of like with like. That would seem to be a fairly appropriate way to go.

Mr De Domenico: A very professional way of doing it.

MRS CARNELL: It was a very professional way to go; you are quite right. When they did that they came up with these astounding figures - \$15m per annum just to come down to the average, or \$38m if we were going to go to a privatised service. The study also showed that ACTION's average cost per kilometre - I would suggest that that is a figure that is fairly hard to argue - was some 25.6 per cent higher than the next highest operator - not the average, but the next highest operator - which was the State Transit Authority in South Australia. We all know that they have moved, under a Labor Government, to implement competitive tendering because they understand that their system is just too expensive. So even the next most expensive operator has understood that you have to embrace micro-economic reform, unlike the ACT.

Why are the costs so high? This report talked about many areas. It suggested that patronage of our evening service was the poorest of the four public operators examined. Even though the patronage was the poorest, ACTION had the highest relative level of service, which, of course, exacerbated its average cost. Micro-economic reform would suggest that if you have a low level of patronage you cut your service level, or you make your service level more appropriate for the market. That is what micro-economic reform is about.

The report also suggested that the main reasons for the costs related to drivers. The reasons were things such as the absence of broken shifts, a high proportion of labour oncosts, the meal allowance and, as the Auditor-General pointed out recently, disability payments and a number of other problems with oncosts. Mr Connolly suggested that there really were problems in relation to maintenance and repairs, but these problems are quite substantial. We have suboptimal maintenance procedures, according to this report. We have high expenditure on replacements, again according to a report commissioned by ACTION. We have a low proportion of productive time, one of the things that micro-economic reform must embrace. We have problems with our general overheads, the highest level of admin and support staff costs, and high costs of land and buildings; and, in relation to capital charges, we really have far too many new buses with very low average ages. Madam Speaker, those are the areas that must be addressed if we are going to look at micro-economic reform within our bus services, and I understand that Mr Connolly and the unions involved are very keen to embrace this approach.

Mr Berry is the problem here. We have a Minister for Industrial Relations who is more than willing to bring the public health system in the ACT to a halt for \$500,000 per year - I say that again; the public health system in this city has come to a halt for \$500,000 per year - but he is unwilling to embrace sensible micro-economic reform for what is, at the very least, \$15m per year. This is a situation on which the union and the Minister directly responsible are keen to come to some sort of amicable settlement. What we have in the ACT is a situation where our teachers and our doctors are under huge amounts of pressure. The union is keen to come to a solution - money that we desperately need in this city - and Mr Berry simply is not.

MADAM SPEAKER: The discussion has concluded.

FOOD (AMENDMENT) BILL (NO. 2) 1993
Detail Stage

Clause 6

Debate resumed from 7 December 1993.

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

SUPREME COURT (AMENDMENT) BILL (NO. 2) 1993

Debate resumed from 14 October 1993, on motion by **Mr Connolly**:

That this Bill be agreed to in principle.

MR HUMPHRIES (4.21): Madam Speaker, the Supreme Court (Amendment) Bill (No. 2) makes a number of important changes to the way in which the Supreme Court in the ACT operates. I believe that, for the most part, these changes are quite welcome. I hope that they will result in the Supreme Court operating on a smoother and more efficient basis. Since the ACT obtained control over the Supreme Court in, I think, 1991 we have been progressively looking at

a number of issues surrounding the operation of the court, and I have no doubt that that process will continue for many years to come. There are, of course, issues about the extent of Commonwealth neglect of that court in terms of its structure and its operation. I will not get into that debate today; but I certainly say that I think there is a substantial need for us, as the Assembly of the Territory, to be addressing issues which have not been faced up to for some time about the modernisation of both the legal framework in which the court operates and the physical infrastructure in which it operates, which is perhaps as pressing an issue as the first of those issues. Madam Speaker, I note, first of all, that I said that the ACT took control of the Supreme Court in 1991. Of course, it was last year, not 1991.

This Bill creates a new class of acting judge in the ACT. Members will be aware that we have had our problems from time to time in providing for enough judge hours to be available in a particular period to meet the needs of the Territory. It is necessary from time to time to commit judges to very lengthy and time consuming trials. There are some trials of that kind going on in the ACT at the moment - another is due to start next year - which are bound to consume a great deal of judicial man hours - I can use that expression, I think - and which necessarily drain resources away from other areas where there are concerns. I note that the ACT at present is relatively well served by the capacity of its court. Waiting periods, I understand, in most areas are comparable with those available in the States and we probably are not facing what you might call a crisis in dealing with matters before the court in an expeditious way, relying on the principle that justice delayed is justice denied. However, there is a demonstrated need, I think, for us to have some flexibility.

This Bill creates the concept of an acting judge which will allow the Government to pick up the question of putting somebody in the position of a judge when we are facing a considerable commitment to some other use of the present judges' time. I think that will considerably expedite the problem of court lists when we face, as we will next year, and probably to some extent this year, a very heavy commitment on the part of some judges to other particular matters. The qualifications for appointment as an acting judge are that a person has been a judge of a superior court of record of the Commonwealth, a State, or a Territory, or that the person has the same qualifications in terms of legal experience as presently apply for appointment as a resident judge. That obviously is a similar requirement to the requirement that presently has to be employed in the appointment of a permanent judge.

I pose perhaps a rhetorical question about whether this is a sufficient qualification in these circumstances. Obviously a person who is to be permanently employed as a judge in our ACT court will be building up a level of expertise and experience over a period, particularly if that person has not previously been a judge, that will serve the Territory very well. An acting judge might be appointed for only short periods and not be reappointed, and a succession of acting judges therefore would obtain, in total, less experience than would a permanent appointee. If the Territory were to take the course of appointing a series of acting judges rather than appointing the same person as the acting judge from time to time, we would find at the end of a particular period, say five years, that the experience of our acting judge or acting judges would be less than the experience of a permanent judge had one person been appointed from time to time to act as an acting judge.

I value the experience of our bench. It is an experience which must total several decades if added together at the present time. I would regret the intrusion into the bench on a regular basis of someone who was less experienced. The Government can deal with that problem by simply not appointing different people. It could appoint the same person to be acting judge if that person was available, and let that person return to retirement or whatever that person was doing whenever he or she was not required to be an acting judge. But that is not addressed in this Bill and it is a matter I ask the Government to take on board.

Madam Speaker, there are provisions relating to the professional conduct of legal practitioners. I am concerned about the operation of these provisions, particularly because I believe that there is a strong case for saying that the present provisions for a full bench hearing should be retained for examination of findings of fact against legal practitioners who, in a sense, are charged with committing offences against the rules of etiquette and legal ethics. It would be appropriate, in my opinion, for the present arrangements to be retained to some extent, and I will be moving an amendment to the proposed new section 11 to provide that there should be the hearing by a single judge into findings of fact only where the parties to proceedings consent to that being the case. I will return to that argument later, when we come to debate the detail stage.

There are some other smaller provisions in this Bill, such as some modifications to the former Supreme Court (Arbitration) Ordinance and its operation in respect of the ACT. There are also some welcome provisions dealing with the appointment of the Master. Members will recall that earlier this year the Government, I think through a temporary amendment to the Supreme Court Act - I forget exactly - reappointed the Master, Mr Hogan. I forget what the procedure was, but the Assembly as a whole welcomed that appointment.

Mr Connolly: Actually, this is it. We announced it and this is implementing it.

MR HUMPHRIES: That is right. I thank the Attorney. He announced that he would do so and this is the means by which it will take place. That, as I said, is welcomed by members because it provides that the Master has the same retiring age as judges, namely 70. Madam Speaker, the Bill does make some small but important changes to the operation of the court. As such, it has the support of the Opposition, although we would be happier to see one amendment to this Bill which we hope to deal with in the detail stage.

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.

SUPREME COURT (AMENDMENT) BILL (NO. 2) 1993

Debate resumed.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.30), in reply: I thank the Opposition for its general support in principle for the Bill. Certainly, the ability to appoint acting judges will provide some additional flexibility to the bench. I note that Mr Humphries has avoided the temptation which is sometimes urged upon us by the Law Society to say that there is a desperate crisis and that we must immediately appoint a fourth permanent resident judge in the ACT. No doubt we will come to that point at some time, but there would be a very substantial additional cost to the community were we to create a fourth permanent judge. The appointment of acting judges does give us some flexibility.

Mr Humphries's point about the need for some caution in ensuring that we have an experienced base of acting judges is well made. It would be our intention that acting judges, by and large, would be persons who have been in judicial office and have retired. I would be very reluctant, given the size of the ACT and the smallness of the profession and the bar here, to go down the path of appointing people from the bar to be acting judges and then go back to the bar. There is real potential for difficulty there if one week counsel is appearing before court, the following week is sitting on the court, and then the week after that is back as counsel.

Mr Humphries noted the appointment of the Master. This is a very important provision. It allows the court to retain the services of Mr Hogan who has done a remarkably good job since his appointment. The comment Mr Humphries made about the fact that our waiting lists are comparatively good in the ACT and compare favourably with other larger States is, by and large, a tribute to the work that has been done by Mr Hogan since he has been Master. He has done a remarkable job in taking hold of the civil lists and imposing some order in what was once not that orderly a list, and ensuring that matters are speeded up and do not sit on the court list for years and years with no action being taken.

It might be appropriate at this stage to foreshadow the Government's view on Mr Humphries's amendment which goes to the issue of the procedure in the court in disciplining solicitors. The strong view of the Law Society is that, in effect, there ought to be no change; that a disciplinary matter involving a member of the legal profession must be heard by three judges. The Government thinks that is inappropriate, that really that is a "lawyers are different" argument. The Government believes that, in the long term, the solution will be some form of tribunal or professional body to look at lawyers. Lawyers who infringed against their code of professional conduct would be dealt with by a professional conduct board made up of their fellow professionals and members of the community, just as we passed this morning provisions that say that osteopaths or pharmacists or whatever who transgress their professional ethics will be dealt with by a disciplinary panel comprising their fellow professionals and members of the community. I do not see why a lawyer who infringes their professional ethics needs to be dealt with by three Supreme Court judges, whereas any other professional tends to be dealt with by an appeal body.

Because we were trying to speed up proceedings the other day I tabled in this place the Legal Practitioners (Amendment) Bill and my remarks on it. Those remarks made it very clear that the Government is looking at a further stage of reform of the legal profession. One aspect of that next stage is the development of a professional discipline panel, made up of members of the community and lawyers, to streamline legal disciplinary matters. I do not think it would be fair on the profession for us to jump the gun on that and do that by amendment to this Bill, but the Government does telegraph that that is its intention. For that reason we would not want to weaken the provisions of this Bill, which we see as some form of compromise between the Law Society's favoured option and the Government's favoured option. The Government's favoured option, I am happy to indicate at the outset, is to say that a single judge will deal with the whole process; that is, a disciplinary matter involving a solicitor could be dealt with by a single judge who could find facts and could impose penalty.

Given that a member of the public can be dealt with by a judge alone - indeed, a penalty will be imposed by a judge alone, up to and including penalties for murder - I see it as hard to rationalise why a legal practitioner, when it comes time to impose a penalty for breach of professional ethics, needs to be dealt with by three judges. However, we were prepared to accept, as a compromise with the Law Society, a package that removes the current position where three judges have to find facts and impose penalty. The fact finding can be a quite long process; it can involve, say, a week of hearings. It is, in effect, a contested civil case. That ties up three judges. We would need only a few of those matters a year to have a significant impact on the court's resources.

We have been fortunate in the ACT. Perhaps I should not say that we have been fortunate; perhaps I should give some credit to the profession. The ACT profession can hold up its head well in comparison with the profession in other States in that there have been very few instances of ACT solicitors involving themselves in unprofessional conduct in the sense that we have not had cases of defaults on trust accounts and defrauding of clients' moneys. Such cases have been fairly widely publicised in some other States. So the court, fortunately, has not regularly been called upon to involve itself in disciplinary matters, but it would not take very many to have a very substantial impact on court resources.

The Government takes the view that the position in this Bill is a compromise. The Law Society's favoured position is three judges to inquire into facts and three judges to find the guilt and impose the penalty. Our view is that a single judge can find the facts and that then goes to a panel of three judges. The fact finding is the long process. The three judges then probably would sit for only a day to look at those found facts. That is a satisfactory position which is on course to the Government's eventual favoured position where the legal profession would be dealt with as the medical professions are - by a professional disciplinary body made up not of judges, with all the costs, staff and infrastructure involved in judges sitting, but a panel of professionals and members of the public. They would deal with this just as any other profession is dealt with.

Mr Humphries's foreshadowed amendment gives the option of a judge alone finding the facts if it is agreed by all the parties, but otherwise would have the position of three judges remaining. I foreshadow Mr Humphries's amendment because he has shown it to me. The Government thinks that that is too close to the status quo. Given that we wish to move quite a way away from the status quo over the coming year or so, the Government will not be supporting his amendment, although I would acknowledge that it is a step forward from the Law Society's favoured position, which was no change at all - three judges always and in every case.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR HUMPHRIES (4.38): I move:

Clause 8, page 4, line 6, proposed section 11(4), after "Judge", insert "with the consent of the parties".

I will not detain the Assembly for very long. Obviously, the Assembly will not be supporting this amendment, but I thought I should put the arguments for it on the record. I do not think that we are necessarily an enormous distance apart in these matters. I certainly also can live comfortably with a provision which requires a tribunal to exist. I understand that that is the position of at least some of my colleagues on my right here, and I think that at the end of the day that would be an appropriate outcome for this process. My concern is that until we have a process established whereby there is a tribunal in the ACT it would be more appropriate to provide some protection for people coming before the Supreme Court in this situation, and that protection would be better modelled on either the present arrangements in the ACT or something akin to the arrangements employed in other jurisdictions in Australia. I will come back to the argument about what happens in other jurisdictions.

The argument that has been put by the Law Society of the ACT is that where a practitioner is to face the forfeiture of his right to practise, and that, of course, means an end of that person's livelihood from the practice of the law, those proceedings are effectively quasi criminal in nature. A practitioner deserves at all stages of that process the protection which is akin to a jury trial, and that is to have more than one person considering the merits of the case which is being put before the court. I note that the ACT in the last few months has provided for some relaxation of the criminal law and has allowed for an accused person to consent to the hearing of proceedings against him or her to be held without a jury.

I emphasise that that arrangement occurs only with consent. These would be quasi criminal proceedings and they would be conducted in the absence of any fact finder other than a single judge if this amendment is not carried. There would not be any people who would assess the questions of fact other than a single judge in this case and I think, Madam Speaker, that that would be inappropriate.

I turn to the procedures in other jurisdictions. Mr Connolly was very keen to make us look at what happens in other jurisdictions last night in a debate on another Bill, and I would remind him that the position in every other jurisdiction is that at least two people examine questions relating to findings of fact for the purpose of striking a person off the roll. As I understand the information supplied to me, in New South Wales the body which deals with cancellation or suspension of practising certificates consists of two solicitors and one lay person. In Victoria it is the secretary of the Law Institute and an ex-judge or a solicitor or a layman. In Queensland there are five to seven practitioners sitting on the appropriate board. In Western Australia there is a chairman, two practitioners and one lay person. There are three legal practitioners in South Australia, five members of a disciplinary committee in Tasmania, and in the Northern Territory any four of three practitioners nominated by the Law Society and two practitioners nominated by the Attorney-General plus one lay person.

The extent of the range of opinions which are being sought in matters where we are examining questions of fact in other jurisdictions is quite broad. It would be a little bit unfortunate if practitioners in the ACT appeared to have less protection in these sorts of matters than their colleagues in any other State or Territory. I concede that the one person hearing matters of fact in these circumstances is a judge. I do not question the capacity of judges to hear matters of fact impartially and well, but I do say that it would be appropriate for a procedure which is quasi criminal in nature to be dealt with in a quasi criminal way.

Madam Speaker, those are the arguments. I will not press them because, obviously, they are not the view of the Assembly at this stage; but I do look forward to coming back and examining this matter, perhaps next year, in connection with an amendment to deal with the creation of a tribunal in the ACT. I might just note before sitting down that not many cases of this kind come before the courts. I am advised that in the last three or four years there have been only four disciplinary matters. They took on average two days each, of which approximately one day was taken up with findings of fact. What that means is that the amendment I am proposing would cost, in that sense, on average, only two judge days per year. That is not exactly a heavy toll on our courts and it does result, I think, in a greater degree of fairness. Those are the arguments, Madam Speaker, and I look forward to coming back and visiting them again, perhaps next year.

MR MOORE (4.44): Madam Speaker, I am delighted that the Attorney-General has agreed to revisit this issue and to have a look at the possibility of a tribunal. I think that is a far better way to deal with the issue. I must say that when Mr Humphries approached me on this issue last week - the Law Society did the same - it seemed to me that the logical way to go until such time as a tribunal is established is to provide as much fairness and as broad a safety net as possible for members of the legal profession who find themselves in this position. For that reason I will be supporting the amendment moved by Mr Humphries. I recognise that with the establishment of a tribunal such a system will not be necessary. I would hope, in fact, that it will never be used. As Mr Humphries pointed out, and as the Law Society pointed out to me as well, there have been three or four cases - approximately one a year - in the ACT where matters of this nature have been dealt with. Nevertheless, I think that, for another year, the fairest possible system ought to be there. For those reasons I will be supporting this amendment.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.45): If we accept this amendment the ACT will be in a very anomalous position. It will be the only jurisdiction where multiple judges are involved in disciplinary hearings. Mr Humphries's view is that you need more than one person. He ran through the States where there is more than one person. It is significant that in those States where there is more than one person it is essentially the professional disciplinary tribunal type of structure. I would favour that, and I get the view that there is a majority of support here for that, but I do not think it would be fair to the profession for us to belt through an amendment today to achieve that. I think we need to go through a long process of consultation.

What I am concerned to do is to reduce what I see as an unnecessary imposition on the court's time if we need three judges to decide matters that elsewhere are dealt with by professional panels. There is a significant difference between a Supreme Court judge and a professional panel. That is not to say that if you have three or more members on a professional panel you need to have three judges. Two jurisdictions that are comparable to us, that is, jurisdictions which use judges, not professional panels, are the Northern Territory and Tasmania. The Northern Territory is directly comparable to what we are proposing - that is, a single judge finds the fact and then it goes up to three judges to dispose of the facts. The Tasmanian situation is the Government's earlier favoured option, which is a single judge dealing with the whole matter. The Government would remain of the view that it is unnecessary and overly expensive and overly archaic really, too much of a "lawyers are different" approach, to say that you need three judges to determine everything in a disciplinary matter involving a lawyer. We would like to simplify it somewhat for the moment.

Mr Moore: In the Northern Territory there is an interim method.

MR CONNOLLY: The Northern Territory is the same as us.

Mr Moore: No, they have an interim method. The Northern Territory has an interim method for where there is cancellation or suspension. What you are talking about is being struck off. You are correct about being struck off.

MR CONNOLLY: Yes, the ultimate sanction. We do not have those intermediate procedures, so we are talking about the serious sanction. The point is that they have a single judge fact finding and then three judges to impose the penalty. In Tasmania a single judge is doing it all. We will be going beyond this. I suggest to members that it is a retreat to accept Mr Humphries's amendment because you are going back to saying three judges. I am not confident that the Law Society is as enthusiastic as I am and Independent members are about parting from that model and having a disciplinary board structure. I would suggest that if we lock back into having the three judges always it may be harder to get away from it in the future. I think we should send a signal that we are moving away from that.

MS SZUTY (4.48): Madam Speaker, I support the comments made by the Attorney-General and I will not be supporting the amendment proposed by Mr Humphries. I think the Attorney-General's presentation speech outlined the situation quite well. The resources of our courts are fairly limited and we do appear to be dealing with lawyers in a very generous fashion. I, too, received representations about this matter from the Law Society during the week and considered very carefully the comparison between jurisdictions of disciplinary proceedings leading to suspension and cancellation of practising certificates or striking off. I agree with the Attorney-General's approach; namely, that we should have an interim step prior to the Supreme Court having any say in these matters. The setting up of a tribunal early next year, I hope, will go a long way to resolving this situation as it currently occurs. I will not be supporting the amendment proposed by Mr Humphries.

MR STEVENSON (4.49): Madam Speaker, I can understand why the solicitors would like as many judges as they can get. I note that Mr Humphries has diligently collected information from around Australia showing that there is always more than one person finding the facts, but I think it is important to take note of who those people are. In Canberra we are looking at making it a Supreme Court judge, whereas around Australia it is not a judge. Those people may be other solicitors and so on. I think it is reasonable to assume that a single judge would be well qualified to find the facts in disciplinary matters involving a solicitor. I tend to be more persuaded by the arguments presented by the Attorney-General than by the arguments presented by the solicitors. I had fairly detailed chats with them. I suggested that they get back to me and cover some of the arguments that were raised with new information if they had it, or specifically detailed answers to some points I raised; but there was no new information presented. Under those circumstances I favour the proposal for one judge to find the facts. They did raise the point that it would be difficult to sort out when the facts finished and the findings started. Apparently that is not the case. A Supreme Court judge could be held to be able to do that with reasonable clarity.

Amendment negatived.

Bill, as a whole, agreed to.

Bill agreed to.

AIR POLLUTION (AMENDMENT) BILL 1993

Debate resumed from 25 November 1993, on motion by **Mr Wood**:

That this Bill be agreed to in principle.

MR WESTENDE (4.51): Madam Speaker, the Liberal Party is happy to support the amendments contained in the Air Pollution (Amendment) Bill 1993. We have consulted with various industry sources and there is general agreement with these amendments. There were a few points raised initially, but these have mostly been clarified. One related to appliances currently installed and the other related to equipment unsold prior to the Australian Standards 4013 coming into force. Both issues have been clarified and, in fact, clause 12 exempts these appliances. All equipment is now checked by either Amdel in South Australia or

the Coal Institute in Melbourne, and we believe that that is a fairly good safeguard. We would like to make one further suggestion to the Minister. In our discussions most of the reputable fuel merchants expressed a wish to see a code of conduct developed where the members voluntarily agree to observe the code of conduct and, in fact, would be prepared to advertise against those merchants who do not observe the self-regulation. The Minister might like to take this recommendation on board. Irrespective of that, we are happy to support the amendments.

MR MOORE (4.53): Madam Speaker, I was proud to be part of the Standing Committee on Conservation, Heritage and Environment when we brought down our report on fuelwood heating in the ACT. Members who work on committees take pride in seeing their recommendations implemented in legislation. We appreciate it when a Minister recognises our recommendations and moves to have them implemented in a practical way in legislation, as Mr Wood has done in this case. So, Madam Speaker, it is with pleasure that I offer my support to this Bill.

I notice in the Bill a change in terms of the Subordinate Laws Act from 15 sitting days to five sitting days as that Act applies in certain areas of this Act. It seems to me, Madam Speaker, that in many areas we probably need to look more carefully at our subordinate laws legislation now that it has been in practice for a couple of years. Fifteen sitting days can be a very long period. Members do have time to look at subordinate legislation and to assess whether or not there is a need to move for disallowance. I think in these instances that the change from 15 days to five days is quite appropriate.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (4.54), in reply: Madam Speaker, I thank members for their comments and their support. I agree with Mr Moore that it is a good process when reports from committees are dealt with in this way. It shows the infrequently reported but productive side of this Assembly when this process occurs. I think we would all agree that the environment in Canberra is pretty good, and we certainly want to keep it that way. Indeed, we want to improve it. If we do have a problem in respect of the quality of air, it occurs in winter in some parts of Canberra, especially in Tuggeranong. It is appropriate to take measures like this to see whether we can improve it. I went to the top of a hill - Oxley Hill, I think it was - early one morning - - -

Mr Cornwell: Did you bring down 10 tablets of stone by any chance?

MR WOOD: No, I did not. Actually, there is a tablet up there. From that point you can see the occasional chimney that is really contributing to that haze. I do not know whether we will ever subsequently go and locate a door - - -

Mr Humphries: O'Connor, was it not? The worst edge of O'Connor?

MR WOOD: No, O'Connor is not too bad. I can tell you that I do have a chimney and an open fireplace; but it is built over, I am afraid, and we do not use it. We can identify places. It means that we can take action, possibly, but our approach is to educate the community. I note the point in that respect that Mr Westende makes about a code of practice amongst the wood merchants.

8 December 1993

I think that makes sense. I know that Mr Connolly, my colleague, from time to time has taken action against wood merchants who give too little fuel for what has been paid. Appropriate consideration can be given here and I will take up the matter with Mr Connolly to see whether we may progress that amongst the fuel merchants.

I thank members for their comments. I think this is an important step, and we will take further steps in the future to ensure that the air is as clean as it possibly can be. I might add one thing. We have to decide in a short space of time whether we will allow fuel burning stoves in those new West Belconnen suburbs. This has been raised in the committee looking at the draft variation for West Belconnen. Maybe people ought to comment to me in the next month or so on their views and whether we want to take that step. It is something I am about to consider.

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 4.58 pm