# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

## HANSARD

14 December 1993

**Tuesday, 14 December 1993**

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

## QUESTIONS WITHOUT NOTICE

### Government Service - Enterprise Bargaining

**MRS CARNELL**: Madam Speaker, my question without notice is addressed to the Chief Minister. I refer the Chief Minister to the report in the *Canberra Times* of last Saturday that she recommended that unions speak to her Minister for Industrial Relations on enterprise bargaining. I also refer her to an article in the same paper on the same day reporting that a spokesman for the Minister for Urban Services also advised that the Minister for Industrial Relations should handle negotiations on this important subject. I further refer the Chief Minister to comments made by Mr Berry on ABC radio this morning that a union that had written to him on enterprise bargaining had in fact written to the wrong Minister and should have written to Mr Connolly. I ask the Chief Minister: Who is your Minister for Industrial Relations? When will this outrageous buck-passing between Ministers cease? When can unions attempting to negotiate micro-economic reform with your incompetent Government get a straight answer?

**MS FOLLETT**: Madam Speaker, I thank Mrs Carnell for the question.

**Mr Connolly**: Well read, Mrs Carnell.

**MS FOLLETT**: Yes, well read - word perfect. Madam Speaker, I can advise, if I still need to advise, that the Minister for Industrial Relations is Mr Berry.

**Mrs Carnell**: He did not seem to think so this morning. He said that Mr Connolly needed to handle it.

**Mr Berry**: He is the Minister for buses.

**MS FOLLETT**: Indeed, Mr Connolly is the Minister for Urban Services and for ACTION buses. Madam Speaker, it is a fact that the enterprise bargaining arrangements in the ACT are being handled centrally. That gives Mr Berry a central role. In fact, he has met with the unions, and negotiations on enterprise bargaining are continuing. The central coordinating group and the local bargaining centres have been working very hard on how to achieve the budget savings concurrently with efficiency and productivity measures that will lead to productivity pay increases. I hope that it does not come as news to members that, in looking for pay increases, unions often put their case quite strongly; and the situation at the moment is no exception. They feel strongly about their claims for productivity pay increases, and that is reflected in a great deal of their rhetoric.

Madam Speaker, I believe that, whilst this is a very difficult issue, the position that is being taken by the Government, of a central arrangement and centrally negotiated agreements, is the best possible one. It is a decision of the Government that that is the way to proceed, and we have not changed our minds at all. I think that what we are seeing at the moment is parties exploring the scope for negotiation. We are hearing claims being put fairly strongly, and I believe that the course of action that the Government is taking is the best possible course of action.

Madam Speaker, on other issues, of course, individual unions and workplaces are at liberty to raise matters with anybody they wish to, but most particularly with their own Minister if their actions are confined to one department; and that is what is occurring as well. Indeed, many of them raise issues with me as well. My approach has always been to refer such issues to the Minister involved, at least in the first instance.

**Mr Kaine**: Which one?

**MS FOLLETT**: On enterprise bargaining, of course, the Minister involved is Mr Berry. There is no mystery about that.

## Building and Construction Industry

**MR LAMONT**: My question is directed to the Minister for Urban Services. I refer the Minister to recent local and national newspaper articles on micro-economic reform in the building and construction industry. Could the Minister outline for the Assembly what those reforms are in that industry in the ACT?

**MR CONNOLLY**: Again, this Labor Government is setting the pace nationally on micro-economic reform, as always. A process was announced in 1991 for reform of the building industry, an industry which had been really marked by industrial conflict for many years. The CIDA process, the construction industry reform - - -

**Mr Cornwell**: The economy is micro.

**Mr Kaine**: And becoming more so.

**Mr Berry**: I raise a point of order, Madam Speaker. If members opposite want to ask themselves questions and answer them themselves, that is fair enough; but they are asking questions of individual Ministers. If they would just have the good manners to listen to them, it would be nice.

**MADAM SPEAKER**: Order! Mr Connolly has the floor.

**MR CONNOLLY**: Thank you, Madam Speaker. It is always the Liberals who are not really interested in issues of micro-economic reform. The Construction Industry Development Agency process was announced in 1991 and the ACT Government was the first government, State or Territory, to sign up for that process. Since that time we have made significant resources available to the CIDA process. Mr John Flutter, who is our director of public works and services, has had the carriage of developing national contracting standards.

Those standards will be implemented from early next year. That will see significant change to the way the building industry has operated. We will have quality assurance standards and we will have a process by which contractors pre-register to be eligible for contracts for major public works.

We held a seminar last week, Madam Speaker, for the local building industry. Over 110 participants came to hear about the process of reform. This process of reform will see significant savings to ratepayers; but, more importantly, it will see the local construction industry - and particularly consultants, project managers and the like - becoming internationally competitive. I also took the opportunity to announce that, while we are going down the path of facilitating a more competitive industry, we will also take quite firm measures to wipe out from the industry the undesirable element who have been operating at the fringe of the industry for too many years. For too long, Madam Speaker, small subcontractors have suffered when sharks in the industry have run companies into debt and bankrupted themselves.

As somebody who grew up as the son of a brickie and a subbie, I can remember some Christmases which were fairly grim when small sums - a couple of hundred quid - were not paid. I am determined that for the future that will be wiped out in the ACT. We will be taking two approaches to dealing with that. The first approach will be to require contractors who have major public works contracts to sign statutory declarations to the effect that they have paid their subbies. If they fail to do that, firm action will be taken. I am pleased to see some nods from the Opposition, because while we support the private sector I am sure that nobody supports the sharks in the industry.

The second approach, Madam Speaker - and I have directed the building control section to look very actively at this - will be to exclude people from building licences if they have a track record of driving companies to the wall. For too long people running building companies have driven them into bankruptcy. In many cases they drive fancy European cars and have very valuable homes held by a trust company or some other suitably removed legal entity. They come back into the industry, and small businesses suffer. Madam Speaker, this Government has dealt with some undesirable business practices in the ACT. Petrol prices are now lower. The building industry is next on our agenda to clean up.

## ACTION - Enterprise Bargaining

**MR DE DOMENICO**: Madam Speaker, my question without notice is addressed to the Deputy Chief Minister in his capacity as Minister for Industrial Relations. I refer the Minister to the proposals from the Transport Workers Union to save $6.5m annually through workplace reform in ACTION - an offer which the Minister has attempted to duck. How can the same Minister justify bringing our hospital system to a standstill because of a maximum possible saving of half a million dollars whilst at the same time ignoring savings of $6.5m per year?

**MR BERRY**: First of all, I have not ducked the issue. The issue is a matter which will be dealt with in due course by the Minister responsible - - -

**Mr De Domenico:** Who is that?

**Mrs Carnell**: Who is that?

**MR BERRY**: Just wait patiently. Patience is not a virtue you have a lot of. That is Mr Connolly. For the centralised role of implementing Government policy in relation to enterprise bargaining, it is Mr Berry. In this case Mr Connolly is the Minister responsible. If there is an industrial dispute within the hospital system, or the health system, it is my responsibility. The strike by the VMOs is very much my - - -

**Mrs Carnell**: You said that it was not a strike.

**MR BERRY**: They are their words. The strike by the VMOs covers a number of issues. It is not about just the blank cheque that the doctors are demanding; it is about who controls the health system as well. When packages are worked out by local bargaining centres, they will be worked out in accordance with Government policy. They will be matters for those local bargaining centres to refer to the central coordinating group, and they will be dealt with in due course. If there are issues about Government policy to be determined within that framework in that area, then Mr Connolly will deal with them. As far as the VMOs are concerned, again I say to you that it is not only an issue about money but also an issue about control of the public hospital system.

**Mrs Carnell**: It is about control and power.

**MR BERRY**: Mrs Carnell used the words, "It is about control and power and money".

**Mrs Carnell:** Not much money.

**Mr Connolly**: Not much money! Just pay them!

**MR BERRY**: Just pay them anything they like - millions, potentially.

**Mr De Domenico**: You said half a million. The TWU want to save us $6.5m, and you have ignored them.

**MR BERRY**: This is the first time I have heard Mr De Domenico take the word of a union.

**Mr Connolly**: Apart from the AMA.

**MR BERRY**: Apart from the AMA. The AMA is all right. There has developed within the health system a situation with which I am dealing. There are very fair contracts on offer - contracts that have been endorsed by Mrs Carnell - because they set out a very fair process whereby disputed matters can be dealt with in a mediation and arbitration framework, a process which will lead to an end to the dispute.

For those doctors who want an end to the dispute, get on board, because we can make sure, as a result of your participating in those contracts, that the dispute will be settled by 28 February. That is, the mediation process will address all of the issues that it can and then an arbitration process will deal with the issues that are left over. It will be a fair process. The outcomes will be fair. We have said that we will cop the outcome, and we require those doctors who sign the contracts to cop the outcome too. Of course, that will bring us to the end of the dispute until the next time the contracts have to be negotiated.

One important part of the new contracts is the commitment to arbitration again and again. That is something that the AMA has run away from. If they had not run away from that issue in the first place, we would not be in the spot we are in now.

In relation to comparisons about savings, again the issue of savings in ACTION is one which Mr Connolly will deal with most adequately. There is always argy-bargy about the positions of industrial players, and I do not expect that there will ever be a wages system where there is not argy-bargy and a bit of froth and bubble about the respective positions of the parties. That is occurring now. There is nothing new in it; nothing has changed. Madam Speaker, a new wages system is about to be developed, as far as it can be developed. The parties involved in the negotiations about those issues will have differing points of view until we eventually come to a position. If we do not come to a position there are no pay rises for anybody. That is the basis of this.

We have to work through the framework to ensure that we come up with a position where there are reasonable pay rises, pay rises which are made in the context of the industrial relations framework within which we very happily live. It is a framework that was the subject of a dispute in the last election - an election that Labor won. That is why we have an orderly industrial relations framework - Labor won - and we are going to be working within that framework. The difficulty with the VMOs is that they do not have such a framework. I have set out the framework in the contracts that we have sent to the individual doctors. If they accept the framework which has been set out in those contracts, then we will have an orderly process which will lead us to a solution. We need to avoid chaos and we need an orderly framework. Mr De Domenico, we have two orderly frameworks within which we will work, provided there is goodwill on both sides. I can tell you that from the Government side there is.

**MR DE DOMENICO**: I ask a supplementary question, Madam Speaker. Minister, having heard all that, I ask whether there is any ideological reason why the Transport Workers Union proposal to save $6.5m per year should not be accepted.

**MR BERRY**: The first thing you have to understand is the process. Again, you do not seem to understand that. That requires the matter to be argued and managed in the local bargaining centres, and in due course that will occur. As I said to you a little while ago, in all industrial situations there are two positions - one on one side, one on the other; the employers and the workers. There is nothing wrong with that. There has been conflict in the workplace over these matters as far back as anybody can remember because that is the way we achieve change in the Australian industrial relations framework. There is nothing new about it and I expect that it will continue for as far forward as you and I will both live, Mr De Domenico. We have an orderly framework within which there is conflict but also resolution by way of the processes which are in place. There is no question that there will be differences on the way, and this is just one of them.

## Podiatry Services

**MS SZUTY**: Madam Speaker, my question without notice is addressed to the Minister for Health, Mr Berry. I did give Mr Berry some notice that I would be asking this question today. I have recently made inquiries about the availability of podiatry services at the former Weston Creek community health centre, now predominantly occupied by the Independent Living Centre. I understand that there are staffing difficulties with regard to the provision of podiatry services and that waiting times at Weston Creek can be as long as 12 weeks. I have also had reports that podiatry staff at Weston Creek have been reluctant to make appointments for clients. My question of the Minister is: What steps is he taking to overcome present difficulties with the provision of podiatry services, especially at Weston Creek?

**MR BERRY**: I am sure that, if the Weston Creek health centre had not been closed by Mr Humphries when it was and Ms Szuty's Weston Creek community centre had not been dislocated, it would be an even better service. I thank Ms Szuty for the question. My staff have been able to get an answer together. Apparently, there has been an unforeseen - - -

**Mr De Domenico**: Just write a letter to her and tell her.

**MR BERRY**: You will have to wait and listen to all of this. See whether you can get seven out of 10 again. I do not know whether you will be able to repeat that.

**Mr Kaine**: You are getting only two out of 10 for answers.

**MR BERRY**: Your mark is dropping. It is under seven now. Due to the unforeseen illness of one of our podiatrists, it has been necessary to reschedule some of the clients and rebook clinic times. There is currently a national shortage of qualified podiatrists, according to my advice, and it has not been possible at short notice to recruit a locum to fill in for the podiatrist who is currently on leave. I am also advised that a number of podiatrists have made themselves available for individual sessions to cover the absence referred to, but this has not been sufficient to fully cover the extent of clinics required. We are currently attempting to utilise the limited number of sessions available to us in the most equitable way, but booking lists will be a problem until that staffing problem is resolved.

**Mrs Carnell**: They are always a problem.

**MR BERRY**: We cannot just wave a magic wand. We do not have a money tree at the bottom of the garden, Mrs Carnell, and little fairies dancing around it with their magic wands and little sparkles flying around. Is it the hills all around?

The most important feature of this is that urgent or emergency foot care and podiatry cases are usually assessed within one working day, and clinically indicated treatment is usually available that day or the next day. Emergency cases might also make use of accident and emergency - - -

**Mr Connolly**: Like urgent foot in mouth, Mrs Carnell.

**MR BERRY**: They would not be able to get that one out. They would not be able to extricate that one. That would be beyond the capabilities of our people, good and all as they are.

The apparent reluctance of staff to make bookings to which Ms Szuty refers reflects the unavailability of podiatrists; it is as simple as that. The difficulty that results is that bookings for clients are presenting as a problem. I understand that the practice is for booking staff to take the relevant details and make a booking as soon as it is known that a podiatrist is available. We are providing as much as we can with our available resources, but unfortunately the availability varies on a week-to-week basis, and this sometimes makes firm bookings difficult. We are working to address the issue of a locum, but it is a difficult one.

**Public Holidays**

**MR WESTENDE**: Madam Speaker, my question is addressed to the Deputy Chief Minister in his capacity as Minister for Industrial Relations. Is it correct, as stated in a Confederation of ACT Industry circular, that the Minister has announced the following public holidays for the ACT: Monday, 27 December 1993; Tuesday, 28 December 1993; Monday, 3 January 1994; and Wednesday, 26 January 1994? Is it further correct that the New South Wales Government has announced the same days plus Saturday, 25 December 1993, and Saturday, 1 January 1994, as public holidays? Can the Minister therefore confirm that in the ACT Saturday, the 25th, and Saturday, the 1st, are not public holidays?

**MR BERRY**: I think I will take that question on notice because there are - - -

**Mr Kaine**: The correct answer is, "I do not know".

**MR BERRY**: No. I will take that on notice and we will make sure that that is clarified as soon as I can get the information together.

**Mr Westende**: People are ringing up and saying that they cannot figure out what is correct.

**MR BERRY**: I would like to see the circular and see what it says. I will make sure that the matter is clarified for you as soon as possible because it is important that people know what is going on.

**MR WESTENDE**: I ask a supplementary question, Madam Speaker.

**Mr Wood**: It is nice to know that he wants more holidays.

**MR WESTENDE**: No. All I know is that we have just reached an enterprise bargaining agreement.

**Mr De Domenico**: Did you speak to Mr Berry or Mr Connolly?

**MR WESTENDE**: Neither. What action, if any, does the Minister expect to take should any of the shops open on undeclared public holidays?

**MADAM SPEAKER**: You will take that on notice as well, Mr Berry?

**MR BERRY**: I will wrap it all together and we will give him a full response.

## Information for School Leavers

**MS ELLIS**: My question is directed to the Minister for Education. I ask the Minister: Is the ACT Government taking any steps to provide information to 1993 school leavers on study, training and employment options in the ACT?

**MR WOOD**: Yes, Madam Speaker. Last year we successfully began an information service and, in the package students take with them from school at the end of the year and in the further information they get, we advised students that such a service operates. It may seem a light matter to some members opposite, but the fact is that we are talking about a time when things can move fairly rapidly as universities put out their acceptances and people take them up. In many circumstances they do not do so but take other options. Vacancies become available, and students may slot in somewhere else. It is a fast moving time.

We found last year that the service we provided with the Catholic Education Office, non-government schools, the Australian National University and the Institute of Technology was much appreciated by students. It facilitated a great deal of their enrolment processes. There will be a telephone hot line on Thursday and Friday, 13 and 14 January, concerning change of preference of students, and there will be an office open in the Melbourne Building on 25 January and a few days after that for further details that may emerge. Students will find this very useful, and we are trying to publicise it as much as possible.

## Payroll Tax - Superannuation Contributions

**MR KAINE**: Madam Speaker, through you, I ask a question of the Treasurer. I am sure, Ms Follett, that you will have read an article in yesterday's *Canberra Times* that talked about superannuation. It states:

> The ACT Revenue Office, unlike the Revenue Offices of the major states of NSW, Victoria, Western Australia and South Australia, regards superannuation contributions made on a "salary sacrifice" to be taxable wages.

It then explains what a salary sacrifice is, but it then goes on and it says:

> The ACT Revenue Office is also considering including all superannuation payments - including superannuation required under industry awards or by the Superannuation Guarantee Charge - as wages for ACT payroll tax purposes.

This is contrary to what the States do. It concludes:

> Remarkably, the ACT Government is either oblivious of the federal and other state governments' "hands-off" approach in relation to the "sacred cow" of superannuation, or reluctant to give up their perceived opportunity to raise further revenue.

Does that accurately describe the ACT Government's approach to taxation, through the payroll tax system, on compulsory superannuation payments?

**MS FOLLETT**: I thank Mr Kaine for the question, Madam Speaker. To tackle the last bit of the question first, I think it is erroneous to say that the Commonwealth has a hands-off approach to what the article describes as the sacred cow of superannuation. I think that that article ignores the Commonwealth's direct taxation on both contributions and earnings of superannuation funds. It is not a hands-off matter at all; it is just a different way of doing it.

Madam Speaker, to answer the major part of Mr Kaine's question, this is not a matter in respect of which there is uniformity of action amongst States and Territories, by any manner of means. To say that the Territory alone is pursuing some course of action is also not quite correct. Different actions are being pursued by other States and Territories, and there is no uniformity.

I think Mr Kaine mentioned that New South Wales, Victoria, Western Australia and South Australia have adopted the approach that no superannuation components of wages be included for payroll tax purposes, but Queensland and the Northern Territory have issued rulings to the effect that employee contributions paid by employers at the election of the employees are to be included. Tasmania has had a parliamentary review of this situation and I understand that that review has come down on the side of employer contributions for superannuation being included in the tax base, but the parliament has not yet moved in that direction. So there is no uniformity at all. Ideally, Madam Speaker, I think it is a matter on which there should be uniformity. In fact, the Under Treasurer, Dr Rosalky, will be raising this issue at the next meeting of heads of Treasury, which is a forum where all State and Territory Under Treasurers discuss issues of national significance. That is the bigger picture.

Here in the ACT, I have been advised by the Commissioner for ACT Revenue that the practice of increasing superannuation contributions as part of a salary sacrifice measure in order to reduce liability for payroll tax is becoming more prevalent. So there is a risk of a tax avoidance issue arising. In addition, the Federal Government's superannuation guarantee charge is becoming an increasingly significant proportion of wages and salaries packages. This is clearly an issue that needs to be addressed, because the upshot of it is, of course, that the Territory's revenue base can be eroded, as can other States' revenue bases. As I say, I believe that it is best if the matter is addressed across the board.

The commissioner has advised me, Madam Speaker, that his office is not requiring superannuation contributions to be included by employers in taxable wages at this time, so they are not.
Madam Speaker, earlier this year compliance inspectors issued a small number of payroll tax assessments which included as taxable wages superannuation contributions in lieu of salary. These are under review, on objection, by the commissioner; but I repeat that the commissioner is not requiring superannuation contributions to be included in taxable wages. However, I think that there is a need to clarify this issue for employers. I will be discussing the matter with the commissioner, and between us we will make sure that ACT employers are made aware of what the situation is in as clear terms as possible at the first available opportunity.

**MR KAINE**: I ask a supplementary question, Madam Speaker. Since it is quite clear from the Treasurer's response that the ACT Government goes further than any other government in Australia in extracting revenues from business through payroll tax, particularly in connection with superannuation - it was clear that that was what she was saying - is this just another element of the Government's program to provide disincentives for business enterprise in the ACT and to turn that micro economy that Mr Connolly is talking about reforming into an even more micro economy?

**MS FOLLETT**: Madam Speaker, Mr Kaine is quite wrong to say that it is clear that the Territory extracts a greater amount of revenue by this method than do other jurisdictions. I have just explained at great length that there is no uniformity. Some jurisdictions raise more revenue from payroll tax, including the superannuation contributions, than does the ACT. So it is quite spurious for Mr Kaine to raise that by way of a supplementary question. I am sure that members will recognise, in looking at the business taxing regime in this Territory, that what has occurred is very much in line with what has occurred in other jurisdictions but especially with what has occurred in New South Wales.

Indeed, it would be foolhardy in many respects for us to get way out of kilter with New South Wales, because many of our businesses are readily transportable. It makes no sense at all. If what Mr Kaine had said were true, then we would have seen a mass exodus of Territory businesses to New South Wales, and that simply has not occurred. The single area where the Territory is different from other jurisdictions, including New South Wales, is our failure to reinstate a bank accounts debits tax. That is a whole revenue item that we do not have but that other businesses have to pay. Madam Speaker, Mr Kaine is quite wrong in attempting to extract a political point, because his information is quite wrong.

## Department of Education and Training - Computer Consultant

**MR MOORE**: Madam Speaker, my question is directed to Mr Wood as Minister for Education. This is yet another question on education - one which I gave the Minister some indication that I would be asking. Has the Department of Education employed an external computer consultant? If so, at what cost to the Government? Could this work not have been done within the department?

**MR WOOD**: Madam Speaker, I am delighted to take on board Mr Moore's questions about education, even if this is a fairly technical one. Yes, we have taken on a computer consultant at a cost of $30,000, the reason being that, despite the range of skills available in the department and in the Government Service generally, the quite specific skills required were not available. It was therefore considered appropriate to appoint a consultant. As an example of the sorts of skills that we are seeking and the sort of data processing that we want to do with our computers, we expect to be able to hook any of our primary schools into facilities around the world - for example, the Library of Congress. I might also point out for Mr Moore's benefit that the consultancy has been arranged not singly in the Education Department but through the whole of government approach on matters concerning computers.

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

## SUBORDINATE LEGISLATION AND COMMENCEMENT PROVISIONS
## Papers

**MR BERRY** (Deputy Chief Minister)**:** Pursuant to section 6 of the Subordinate Laws Act 1989, I present subordinate legislation in accordance with the schedule of gazettal notices for determinations and approvals for codes of practice. I also present a notice of commencement of an Act.

*The schedule read as follows:*

Animal Diseases Act - Notice of commencement (10 December 1993) of remaining provisions (S255, dated 8 December 1993).

Animal Welfare Act -

Code of Practice - Approvals - Determinations -

No. 162 of 1993 - Welfare of Horses (S255, dated 8 December 1993).
No. 163 of 1993 - Animal Boarding Establishments (S255, dated 8 December 1993).
No. 164 of 1993 - Pet Grooming Establishments (S255, dated 8 December 1993).
No. 165 of 1993 - Animals at Saleyards (S255, dated 8 December 1993).
No. 166 of 1993 - Livestock and Poultry at Slaughtering Establishments (Abattoirs, Slaughter-Houses and Knackeries) (S255, dated 8 December 1993).
No. 167 of 1993 - Welfare of Animals - Cattle (S255, dated 8 December 1993).
No. 168 of 1993 - Welfare of Animals - Sheep (S255, dated 8 December 1993).

Motor Traffic Act - Determination of fees - No. 169 of 1993 (S261, dated 13 December 1993).

## ACTON PENINSULA
## Discussion of Matter of Public Importance

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

The need to publicly resolve and determine the future of Acton Peninsula.

**MS SZUTY** (3.07): I have raised as a matter of public importance for debate today the need to publicly resolve and determine the future of Acton Peninsula, as I believe that the community is losing confidence in the processes which have been undertaken to date to provide a way forward for the planning of the site. What I wish to do during this debate today is to explore the varying views put forward by key players who have so far placed their ideas in the public arena and to consider future processes.

My concerns arise from the fact that, nearly three years since the release of the January 1991 study on options for the use of the former Royal Canberra Hospital site, we seem to be no closer to knowing its future. We are still awaiting the outcome of what seem to be endless processes by the National Capital Planning Authority to come up with a master plan for what is, at the end of the day, Territory land. We have had the same National Capital Planning Authority first reject one site, then offer a second, and then reject outright the building of a purpose built hospice on Acton Peninsula. In my estimation, the community has every right to be confused as to who ultimately controls Acton Peninsula and what the two governments involved want for its future.

We have two community groups at least outlining their priorities for Acton. The first is Canberra Community Action on Acton or the CCAA group. This group has been represented at the recent forums held by the National Capital Planning Authority as part of the process of developing a master plan for the area. Since its establishment, this group has lobbied for the retention of the buildings which exist on Acton Peninsula. As recently as 15 November the CCAA has restated its commitment to its view that the buildings should be recycled. I quote from a letter from the CCAA to Gary Prattley, the acting chief executive of the National Capital Planning Authority, in which the group expresses its appreciation of the opportunity to participate in the urban design forum, but still states:

> On balance, we believe that our concept of responsibly recycling the bulk of the existing assets for health and allied uses, in a rejuvenated natural and accessible lake landscape, remains the most appropriate for the Peninsula.

Further on the letter states:

> Griffin's designs show substantial buildings on the peninsula, in a relatively tight grouping set apart from the city edge and enhanced by a sweeping expanse of tranquil open space. The existing main buildings (the main tower of the former hospital and Sylvia Curley House) have been sited and aligned virtually exactly as Griffin depicted them in renderings he and his wife prepared.
>
> In addition to conforming to Griffin's design, the existing main buildings are sound and substantial, and retrofitting their facades in passive-solar and natural light conserving ways (as we have proposed) would provide the opportunity for a more appealing architectural expression than they presently possess.

Another group which participated in the urban design forum and which seems to work cooperatively with the CCAA is the ACTon Interest Group or ACTIG. This group, over a period, has formed the view that the community is looking toward the Acton Peninsula site being used as an integrated arts, cultural and health precinct. In October ACTIG released a concept paper on Acton stating:

> The existing buildings are a community asset which must be reused.

Earlier, in discussing the public consultation process, ACTIG stated:

> From the October 1992 Community Collaborative Workshop, and the September 1993 Focus seminars, the planning authorities must now recognise and accept that the Canberra community is wholly against the planning and design concept which would urbanise the lake foreshore as promoted in the joint NCPA-ACT Planning Authority Draft Discussion Document: "Where the City Meets the Lake".

ACTIG also noted that the structuring of the public consultation process restricted opportunities for exploring some avenues. I quote again:

> While the community's preference is for existing buildings on the Acton Peninsula to be recycled for health and cultural uses, the nature of any such adaptation and the range of activities that could be included have not been extensively defined. Unfortunately, opportunities provided by the NCPA for community discussion have not been structured to encourage the formation of a cohesive community vision, from which themes and activities could be defined. Many participants felt the meetings were so tightly structured that expression of individual views was prohibited.

The group also noted the absence of any detailed policy for relocation of health facilities by the ACT Government to Acton, apart from some commitment to place a hospice on the site. The bottom line for this group is the retention of the site for community uses in perpetuity. The four themes the group identifies are health, heritage, arts and recreation. It states in a paper on suggested uses for the Acton-West Basin area:

> We strongly support the overwhelming community consensus, which consistently emerged during the consultation process, that there should be no urban housing or commercial development on Acton Peninsula or West Basin.

That is the community view as expressed by two key community groups participating in the current process.

So what is the view of the organisation which has been facilitating the development of the master plan, the National Capital Planning Authority? In the 1992 document "Where the City Meets the Lake" the National Capital Planning Authority and the ACT Planning Authority put forward a view of what could be located on the site. Facilities included up to 1,000 dwelling units, cultural facilities, festival markets, and space for community events, memorials and landmarks, commercial facilities, and university research facilities. There was one small, seemingly obligatory paragraph on the provision of health facilities, and there was mention of how the National Capital Planning Authority would lessen the open space available in the area by reducing it to a paved promenade and a number of pocket parks in among the residential units.

What of the National Capital Planning Authority's attitude to the stated aims of the ACT Government to provide health and community facilities on the site? The National Capital Planning Authority used its planning powers to effectively deny the ACT Government and the ACT community the planned hospice. The National Capital Planning Authority does not speak highly of the plans to tie the site in perpetuity to the provision of health services.

The latest idea proposed by the National Capital Planning Authority is to postulate that the Museum of Australia should be relocated from Yarramundi Reach to Acton Peninsula. The museum put forward a proposal which would have helped it generate the funds it needs to meet Federal Government requirements that for the long promised museum to be constructed it had to raise funds on its own behalf. After nearly 20 years of planning, the museum is being informed that it can build its housing, but only if it agrees to relocate from the site chosen in 1975 as the best location for the type of facility planned. The National Capital Planning Authority is yet to release its awaited discussion document on Acton-West Basin. This document will be the result of the urban design forums held in November 1993.

Members may well ask: Where has the ACT Planning Authority been during this process? There has been little or no defence of the ACT's right to determine the future of the site. What of the ACT Government's views? The Health Minister, Mr Berry, has stated that he will fight on for the location of a hospice on the site. In February 1992 the Government's health policy stated categorically that the chair of community medicine from the proposed clinical school would be located on Acton Peninsula. On 17 February 1993, during another matter of public importance debate on Acton, the Minister stated, in direct reference to the establishment of a clinical school on the site:

> We cannot put the clinical medical school down on the Acton site. It is not going there. I make that position very clear.

The Minister for Planning, Mr Wood, said on 24 March this year, in answer to a question about consultation on the future of Acton Peninsula:

> We express our views, and I am quite happy that in the end our views will be the ones that dominate because nothing happens there except as we determine.

On 1 April this year, in answer to another question about the consultation process, the Minister said:

> They -

the National Capital Planning Authority -

> do most of the running, and the ACT Government, through the Planning Authority, is a minor player ... the responsibility, legislatively, is with the National Capital Planning Authority ... we are limited in what may happen.

The Minister did go on to say that he was considering means by which the ACT Government can play a more dominant role, but we have heard no more since that time. Perhaps Mr Wood today will bring any developments in this area to the attention of the Assembly.

The ACT Government's position is not expressed solely by these Ministers. In June 1992 the Chief Minister wrote to the Prime Minister putting forward what she termed the ACT Government's "short and long term visions" for the peninsula. While Ms Follett's letter quite strongly set out the fact that she expected the ACT Government to retain control over the majority of the peninsula, her vision is one which does not accord with the findings of the community groups mentioned earlier. Ms Follett saw the site, at that time, in the long term, as having potential as an urban village, and I quote:

> Based on a mix of medium and high density housing with ancillary commercial and tourist facilities.

Ms Follett also made reference to health facilities, and I quote again:

> The Government also believes that the opportunity should also remain for the provision on the Peninsula of public health facilities, including a hospice, rehabilitation and aged care services, a relocated Queen Elizabeth II Hospital for Mothers and Babies and nursing home facilities.

What I am looking for now is for the ACT Government to better explain to the community what its short- and long-term visions for Acton Peninsula are, and what level of building space it feels would cater for the provision of the promised health and community facilities. The Government also has not indicated to date whether it sees the present buildings or new buildings as fulfilling these promises. I am not aware of the Chief Minister making public the Prime Minister's response to her letter, but I would be interested in hearing of his comments on the issue.

The final player of those players interested in the future of Acton Peninsula is the Australian National University. The university has taken to the task with vigour, producing a plan for the development of a high-technology research park adjacent to the peninsula. The plan is decidedly long term, looking at the needs of the Australian National University and the university community over the next 50 years, with a fairly relaxed timetable for achieving the culmination of these plans. I understand that the plan has been referred to the university community for further consultation.

The various plans, forums, discussion papers and other vehicles for expressing the future of Acton Peninsula have created additional uncertainty. The community, I believe, wants to know who has the final say on the future use of the land, and what are the plans for what the community believes is its peninsula. Where is the way through this maze? Firstly, there must be open and honest admission to the community of the likely adoption of the various proposals. Proponents need to come forward and declare their interests and the ACT Government needs, I believe, to take on board the community's view that housing does not belong on the site. Secondly, there needs to be clarification of the roles of the two planning bodies involved - the National Capital Planning Authority and the ACT Planning Authority - and their relationship with each other. Acton Peninsula has profile, is a glorious location, and has become vacant due to the closure of Royal Canberra Hospital. It has become available in the eyes of some. In the eyes of the community it has become available only for other community uses.

We also need to ensure that long-term planning is not jeopardised by the meeting of short-term goals and objectives, and by "long term" I prefer to think of the needs of future generations. It is my belief that the community wants a commitment that the Canberra community will not lose a site it sees as important and necessary. The community does not want Canberra to become the bits left over after the National Capital Planning Authority takes over all the prime real estate for its own purposes. Madam Speaker, there is a way through this maze. The ACT community, I believe, is asking for its ACT Government to ensure that its interests are protected and that its concerns are heard and listened to. The way through, Madam Speaker, is to establish publicly what rights and obligations Canberra has with regard to Acton Peninsula and to develop open and clear processes which will ultimately determine the future of the site.

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (3.20): Madam Speaker, this matter of the future of the Acton Peninsula is one that we have discussed several times in this Assembly. Maybe at times we felt that we were getting closer to agreement, both within this house and with other agencies; but not more broadly, because there are so many views about Acton Peninsula within the community. Ms Szuty demonstrated that for you today. This is because the matter is really quite complicated. The involvement of two governments and the history of the site also mean that we have to try to reconcile a very wide range of views that have been expressed over a period.

We all know that the site is a very important one for the national area in Canberra. It is a highly significant site on the edge of Lake Burley Griffin. It is therefore appropriate for it to be a designated area in the National Capital Plan. I do not think anybody would dispute that. This means that the body with responsibility for planning policies and works approval for the area is the National Capital Planning Authority, and I think that that is the basis of the discussion that we have. They have the planning responsibility.

A further factor is that the land is Territory land. Most of the balance of the lake foreshores is national land, but at the time of self-government the site was a working Territory facility, the Royal Canberra Hospital. Because of this the land came to the ACT as a Territory asset. If the hospital had not been there and it had been, for example, open space, it is almost certain that the land would have been classified as national land. The decision in 1989 to close the Royal Canberra Hospital has generated an intense community debate about the future of the site. That debate has highlighted the diversity of views and the strength of people's feelings about the site. In particular, the former use as a hospital has left many local people with a strong emotional tie to the peninsula and a strong conviction that it should remain as the location of community health facilities. Members will be aware of the strong lobbying that has taken place on that basis.

For several years the National Capital Planning Authority has been working towards the preparation of a master plan for the site, and any future development of the site will need to be consistent with this master plan. Nevertheless, and I will say this often, what is finally built on that site is a matter for determination by the ACT. The NCPA approach has been based on the view that the site is very significant and demands the highest quality development.

Their stated preference is for a major national institution, at least on part of that site. Many Canberra citizens, on the other hand, see the site as having a much broader range of options, and Ms Szuty spent a deal of time again canvassing those options.

The master plan study is being coordinated by a steering committee convened by the National Capital Planning Authority. ACT Government agencies are represented on that committee. The NCPA has used a variety of techniques to develop ideas and to seek a consensus on the future of the site. Indeed, it has had a number of starts and stops and restarts as it tries to find the correct formula for determining what ought to go there. The first of its steps was the establishment of a community committee to consider the options and provide advice to the steering committee. This community consultative committee, under the leadership of Mr Rae Else-Mitchell, has conducted a number of workshops with the community and is reported - I say reported - to have made some progress in this work. Other techniques have included the involvement of students in a design project and the holding of the recent urban design forum. This forum developed eight principles on which the Acton Peninsula and the West Basin should be developed. Then, of course, there are the community based groups that Ms Szuty referred to.

The ACT Government has always said that the site should remain available to the community and should include a range of public spaces and public facilities. In addition, the view of the ACT Government has always been that the Acton Peninsula is an appropriate site for health facilities. The proposal for a hospice was consistent with this approach. As members will be aware, the hospice proposal was not approved by the NCPA. Discussions on that matter are still continuing.

The proposal from Commonwealth authorities for the relocation of the National Museum from its current proposed site at Yarramundi Reach to the Acton Peninsula emerged a little time ago. My understanding is that there is still some discussion of this proposal within the Commonwealth Government; but, as far as I am aware, no formal approach has been made to the ACT Government on the issue. The decision on the siting of the National Museum will be one for the Commonwealth Government, but because the Acton Peninsula site is Territory land there will need to be a good deal of negotiation with and agreement by the ACT Government. In practical terms, such a decision, or any decision, is feasible only with the support of the ACT Government. It may be that the appropriate action should be that the Commonwealth Government confirm a preference for the site, but they need to determine their view, I think, fairly soon. For our part, we will maintain liaison with the Commonwealth authorities, and I will keep the community and the Assembly informed of progress as it is made.

Ms Szuty's MPI seeks publicly to resolve and to determine the future. I think it is pretty clear that that is happening. I think the final point I should make is that this is a significant site. I guess you could say that Canberrans regard it as a sacred site. I do not see that there is need for a great rush on this matter, so long as it is being dealt with properly. I am not racing to a conclusion.
There are many difficulties involved and there are many different views, and the NCPA needs to proceed down the correct track and make sure that it encompasses all views and keeps discussing the matter with us. We will certainly see that that happens. I do not think that the NCPA will want to hurry

the current exercise of former Justice Rae Else-Mitchell. He is now going through a process that I would encourage. Indeed, I think that could have been started upwards of a year beforehand. The process is to go out to the community and ask the community for its ideas and see how well they may conform with the broad ideas for the peninsula. The matter will continue to maintain the interest of Canberrans for quite some time. Ms Szuty's MPI is simply part of that debate.

**MR KAINE** (3.29): Madam Speaker, I suppose it is always timely for a member of the Assembly to bring up a subject like this because it is an important one. We could probably debate it half a dozen times during the year and, of course, we would get the same response. I was a bit disappointed in Mr Wood's response to the points put forward by Ms Szuty because he said, and I quote him, "I am not racing to a conclusion". That is an understatement if ever there was one.

**Mr Wood**: It is not for me to - - -

**MR KAINE**: I am quoting you, Minister. That is what you said. You said, "I am not racing to a conclusion". A tortoise would outpace you. The point is, Madam Speaker, that the Acton Peninsula is becoming synonymous with the view of Canberra as a bureaucratic city where nobody ever makes a decision about anything; whether it is five years or 10 years, it is of no consequence.

The Minister for Planning was correct when he said, "It is an important site". It is one on which this community places great value and because of that it is about time that we had some idea of what the bureaucrats and the politicians in Canberra intend to do with it. We talk about community consultation. How many forms of community consultation do you have to enter into, and over what period, before you have enough information to make a decision? We had an excellent document put out by the two planning authorities in 1992. It made some very useful proposals about how the land might be used and I have not heard any major complaint about their possible new land uses.

In fact, everything that has been said by the Minister today is already encompassed in here - the things that the community sees that this might be used for; the things that the ACT Government sees that it might be used for; the things that the National Capital Planning Authority considers it might be useful for; even the things that the Chief Minister said it might be used for. Her view was not consistent with the Government's view. It was obviously her own view. She put her own view to the Prime Minister, not the view of the Government obviously, and certainly not the view of the community. Everything that Ms Szuty has said about the possible uses, and all of the things that the Minister said about the possible uses, are all encompassed in there.

That was in about the middle of last year and, as a result of that, we had community collaborative workshops. A report was published as a result of those, dated 17 October 1992. Again we had a very large number of people, by the invitation of the two planning authorities, engaged in a community consultation process, a very comprehensive one, and all the issues were thrashed out, and a number of groups and their findings were recorded for posterity.

Here we are 14 months later, and what has happened? It has all disappeared. Nothing is being done about any of the work that was put into these things. I was interested at the time when I received the letter, and somebody else made a reference to it. I was invited. The letter said:

> I am writing to invite you to participate in this week's charrette.

At the time I wondered what it was.

**Mr De Domenico**: It sounds like a Green senator.

**MR KAINE**: There have been various interpretations of the word. We now discover that it means, in fact, that we all sit around and talk but we do not do anything. Presumably, that is what the word "charrette" means. It is just a forum where we can all get everything off our chest, but do not expect anything to happen.

I suspect that the community is getting a bit worried about this site, and I can understand why. All these competing views are being put forward and people, no doubt in their own minds, are carving up the peninsula for their own particular desires for the future, quite selfishly, while the people who should be making the decision and determining the course of action are sitting on their hands doing nothing. I do not know what they are waiting for. I do not know what the Minister is waiting for. I ask the Minister whether he has ever got in his car, driven across to the other side of the lake and had a talk to any Federal politician like Mr Langmore, or Senator Margaret Reid, or any of the people that are involved with planning issues at the Federal parliamentary level? Has he had a talk to them about these issues and said, "How about we have a decision? How about we have an indication from you, the Commonwealth, as to what you intend to do?"? I guarantee that he never has.

We have an interesting interchange going on year after year between the two planning authorities which, I submit, is more a debate about jurisdiction than anything else, not a debate about what the piece of ground might be used for, and it gets us nowhere. I take issue with some of the things that the Minister said. He said that this was a designated area and nobody would disagree with that. Quite frankly, I do. He noted that it is Territory land, but then he went on about how important a piece of land this is in the context of the development of the Territory, and the Commonwealth has to tell us what we can use it for, and that is why it is designated land. I do not agree. Why do we have to have the Commonwealth tell us what that piece of land can be used for? It is Territory land. It was given to us, as the Minister rightly points out, because it had an operating hospital on it; but other pieces of land were given to us because they had operating facilities on them too and the Commonwealth does not pretend to tell us what we can do with them. Simply because it is sitting on the edge of the lake there is this strange view that we should allow the Commonwealth to tell us what we can and cannot do with it.

**Mr Wood**: I am afraid that it is written in.

**MR KAINE**: It is about time you did something about changing it, Minister. You are the Minister. You are a member of this Government. I said that this is becoming a monument to government inactivity and the inability of governments, particularly this one, to make a decision about anything.

They do not even go out and try to persuade the Federal authorities to a particular view. They just accept the fact that the Commonwealth sits over on the other side of the lake and the National Capital Planning Authority sits over on the other side of the lake and they put up a log jam; and our Minister and our Government say, "That is okay. We will just wait". My question is, "For what?".

**Mr Wood**: For the consultation that is presently going on. That is what for. Do you want to cut that in half?

**MR KAINE**: We have had your and your Government's public consultation running out of our ears. It is running out in bucketfuls, and you still do not know what you want to do. You still have no idea what you want to use that site for. You have had plenty of advice. Fourteen months ago you had plenty of advice. You had a great deal of advice from a lot of people who took time out of their lives to accept the invitation to sit down, to look at the issues and to come to some conclusions, and 14 months later what have you done about it? It is in your bottom drawer, I will guarantee. You probably even forgot that you ever saw that document. Well, I did not forget, Minister. There it is and I will give you a copy of it, if you like, so that you can refresh your memory.

I would like to see something happening over there and I think that the community is simply getting impatient. They see the buildings there and they are falling into disrepair. They are not being used for anything. A very small part of the buildings is being used. That site has enormous potential. If it is the wish of the Commonwealth to put the Museum of Australia on the site, if it is such a significant site and that is a significant use, then let us do it. Why talk about it from now till the end of the century before we do anything? It just is not good enough. The people in this Government are accountable to this electorate; these are the people that the community is looking to for some leadership and some decision making. Stop sitting on your hands and make a decision of some kind. If your decision is, "We are not going to touch it for another 35 years", then say that and people will stop worrying about it.

**Mr Wood**: What would you like to do there?

**MR KAINE**: I will give you my advice. You have not asked me to sit down and tell you what I think, either. It is another example of the Government failing to act.

**Mr Berry**: Tell us. Come on, tell us.

**MR KAINE**: I will sit down with the Minister and I will tell him.

**Mr Berry**: No, no.

**Mr Connolly**: You have 20 seconds to go.

**MR KAINE**: I know that he will not do anything about it, and neither will you in your Cabinet, nor in your caucus. You do not seem to think that community consultation is of any importance. You think that the outcome does not matter.

**MS FOLLETT** (Chief Minister and Treasurer) (3.39): Madam Speaker, I must say that, to an extent, I share Mr Kaine's frustration over the matter of Acton Peninsula, in that it is taking an inordinately long time to come to a view on the best use of that peninsula, a view which is supported by the community. In looking at the various consultative arrangements that have been entered into over recent years, Mr Kaine, Mr Wood and Ms Szuty have all pointed to the fact that it is going to be extraordinarily difficult to get agreement on this matter. Not the least of that difficulty is the fact - and it is a fact, Madam Speaker, no matter how much Mr Kaine might like to deny it - that the ACT has to work within a framework of shared responsibility for this planning and development issue. We must accept the fact that this is a designated area and that the Federal Government and its planning organisation have a role as well.

The arrangements that were created at the time of self-government were formulated to provide that the interests of both parties involved in the national capital - both the local citizens and the wider Australian community - were promoted and protected. In response to the need to acknowledge those two client bases for Canberra planning, two planning authorities were set up. We can argue now about whether or not that was the correct thing, or whether or not that is the ideal situation. But that is what happened and that is what we still operate under; and the city that they relate to is the same, which makes for great difficulties. Their responsibilities, and their agendas, of course, are quite different. Anybody who thought that this issue could therefore be resolved quickly and easily has not paid sufficient regard to that dual interest. I consider that Acton Peninsula, on the shores of Lake Burley Griffin, is an area where you could make a good case that there is a national interest surely. If there is any area in the Territory which ought to be the subject of an Australia-wide view, then I believe that the shores of Lake Burley Griffin fall into that category.

Madam Speaker, the impact of these arrangements is that we need to recognise that the people of Australia do have an interest. They have an interest in what happens not just in Canberra but also in areas like Acton Peninsula. At the same time I believe that we have to remain vigilant to promote the rights and the needs of the citizens of Canberra. I do not need to go through the mechanics of that shared responsibility for development of Acton Peninsula. I do, however, want to talk a bit about how it impacts on the ACT Government in practical terms.

Madam Speaker, some time ago the Government made a decision about the location of the hospice which had long been planned for in this Territory. We made this decision in the light of our commitment to the people of Canberra about the provision of health facilities on Acton Peninsula, a commitment which we are still pursuing. We made the decision on the understanding that the range of permitted uses under the National Capital Plan for Acton Peninsula included community facilities, which would include health facilities. Over a quarter of a million dollars was spent in preparing appropriate designs for the hospice on a site that we had previously agreed with NCPA, but when the designs were submitted approval was not forthcoming. We were advised that approval was deferred pending resolution of the Acton Peninsula master plan.

The other case where a proposal from the ACT Government has run into a problem with the Commonwealth is, as members know, the proposed Magistrates Court on City Hill. That is a slightly different case, in that a proposed amendment to the National Capital Plan, which would have permitted the Magistrates Court building and which was endorsed by both planning authorities, was not supported by the Commonwealth's Joint Standing Committee on the National Capital. Whilst those cases are a little different, the Magistrates Court case is another case of the Commonwealth overriding the Territory on a planning issue.

Madam Speaker, my reaction to the refusal on the hospice was to see it as a serious misunderstanding of the NCPA's role and of its position, and one that did intrude into the sovereign role of the Territory's Government. I therefore wrote to the Prime Minister recommending that there ought to be a formal agreement between our governments covering relations on planning matters. I envisage that such an agreement might give effect to various principles, and I would like to spell out those principles for members.

In short, what I have suggested is a memorandum of understanding which would give effect to the following principles: First, that communication between the two governments on significant matters of planning and development be undertaken at ministerial level. I think that is significant; the buck stops with the Ministers. Secondly, that the responsibility of the ACT Government for representing the ACT community in matters relating to the Territory's planning and development be fully recognised in Commonwealth processes and practices. Thirdly, that where planning and development issues are not capable of being resolved between respective planning authorities, or where significant matters are agreed between them, these matters be elevated to ministerial level for resolution or for endorsement, whichever the case may be. Also, that an announcement of matters of significance to both governments be the subject of prior consultation in order to enable their considered public presentation. Madam Speaker, negotiations on that memorandum of understanding are still under way, but they are at an advanced level and I will certainly keep the Assembly advised on progress. I think that if an appropriate understanding can be reached it will help to reduce the potential for conflict in future planning matters.

I hope that it is not too late to undo the situation that we find ourselves in with regard to the hospice on Acton Peninsula. I understand that the NCPA has now advised that if the ACT Government wishes to pursue the hospice project - and we do - this may be accommodated. The Government is pursuing the options, including a new building or a facility within an existing building. In this context I do note that the urban design forum conducted recently, which Ms Szuty alluded to, concluded that it would be possible to include a hospice in an existing building without compromising the overall development of the peninsula.

Madam Speaker, other speakers have touched on the future of the Museum of Australia and the question of whether it might appropriately be built on Acton Peninsula. Even the most casual observer, I believe, would regard Acton Peninsula as a site suitable for an organisation of national significance and I guess that the National Museum would fall into that category; but the thing that is holding up the National Museum is, of course, the Federal Government.

We have given a commitment to fund our part of it. I believe that it is up to the Federal Government not so much to decide whether they want to put it on Acton Peninsula or on Yarramundi Reach, but to decide whether they are going ahead with it and just get on with it. My own view is that the Acton site probably is not big enough for the kind of museum that has been envisaged. Unless that museum model has changed drastically, I cannot image that there is a better site for it than Yarramundi Reach. I am very concerned indeed to see the museum progressed and I will keep discussing that matter with the relevant Federal members. I think, Madam Speaker, that reopening the issue of the site is really just a way of putting off a decision about whether to go ahead with it. I wish it to go ahead and I will do everything in my power to ensure that that occurs.

Madam Speaker, to conclude, like other members of this Assembly, I am concerned to see that the matter of the appropriate use of Acton Peninsula is tidied up quickly and efficiently. Given the range of views that are around, and given the commitment to consultation by both planning authorities, I think it is inevitable that we will take quite a while to come to finality on Acton Peninsula. As far as the Territory goes, and as far as this Government goes, I can flag that we will not be accepting a decision that does not respect, and respect in full, the rights of the Territory's elected representatives and the Territory's people.

**MRS CARNELL** (Leader of the Opposition) (3.49): Madam Speaker, the people of Canberra were promised a hospice more than six years ago. Today the promise simply has not been kept.

**Mr Berry**: It is not a promise about a hospice. This is about Acton Peninsula.

**MRS CARNELL**: The fact is, Mr Berry, that the people of Canberra simply do not have a hospice. It is interesting that the Minister has been notably quiet since mid-September when the National Capital Planning Authority rightly refused to grant works approval for a hospice on Acton Peninsula. I am reminded of a photograph of Mr Berry published in the *Canberra Times* back in May.

**Mr De Domenico**: Is that the one that makes him look like Humphrey Bogart?

**MRS CARNELL**: No, Jimmy Dean. It showed a windswept photo of Mr Berry patrolling his famous hospice fence, head down into a howling wind and wearing a heavy overcoat - a real Jimmy Dean look-alike. I understand that there are plans afoot to rename the roadway that runs into the car park the "Boulevard of Broken Dreams".

Madam Speaker, the NCPA has now completed a series of exhaustive public consultations about the future of this beautiful strip of land that juts out into Lake Burley Griffin. I understand that these consultations have not been cheap and have cost some $250,000, but the fact remains that the people of Canberra are continuing to lose out. They have no hospice and Acton Peninsula continues to lie unused while its fate is debated.

The Opposition supports Ms Szuty's MPI wholeheartedly because the time has come to resolve this issue. Madam Speaker, in politics there is a fine line between the definitions of courage and foolishness. Mr Berry has put himself into a position where he has not produced a hospice. There is no hospice in Canberra.

He is stuck with an undertaking that we will have a hospice on Acton Peninsula at least six kilometres away from the nearest hospital. He has ignored the advice of prominent Canberrans, health and planning professionals, women's and aged groups, and even working parties set up to inquire into the provision of a hospice. There are more arguments against siting a hospice on Acton Peninsula than you can poke a stick at.

**Mr Connolly**: Tell us what they are without reading the next page.

**MRS CARNELL**: I have on quite a lot of occasions, Mr Connolly. It would cost up to 25 per cent more in recurrent terms to operate a hospice on Acton Peninsula. Those are figures that Mr Berry has never suggested are wrong. Instead, Mr Berry has stuck doggedly to his preferred site, Acton Peninsula. This is not courage; this is simply bloody-mindedness. This situation is totally unacceptable.

I am disappointed that Mr Moore is not in the house right now. When we were in Adelaide recently with the Euthanasia Committee we spoke to a number of people who run hospices, and what did they say? What did they suggest about the siting of a hospice? They suggested that it would be irresponsible and unsustainable to site a hospice not adjacent - - -

**Mr Berry**: Were they doctors?

**MRS CARNELL**: No, the people who actually run hospices, administrators.

**Ms Follett**: Were they patients?

**MRS CARNELL**: Interestingly, the patients as well were very positive about having a hospice associated with a hospital where they can have access to the services that they need without having to get into an ambulance. It was interesting to talk to the nursing staff as well. The nursing staff suggested that they too would find it very difficult to be involved in a hospice that was not associated with a hospital. Mr Berry, right this minute, could set up an interim hospice facility in a vacant ward at Calvary Hospital. That is not perfect in the longer term, but it exists right now. Not even any refurbishment is required.

**Mr Berry**: The answer is no.

**MRS CARNELL**: Why no, Mr Berry? Because you are just bloody-minded about this decision. You do not care. You do not care that it is going to cost us money that we cannot afford, that it will not be in the best interests of the patients, or for that matter - - -

**Mr Lamont**: Cost us money we cannot afford? You and your group cost us $80m for teaching that you just knocked over. It was $1.5m, but it would have been $80m over a reasonable period.

**MRS CARNELL**: We are talking about a situation here where Mr Berry wants to build a facility that will cost us 25 per cent more than the same facility built adjacent to a public hospital. That simply has to be a stupid approach. We then could look at the other health facilities that have been planned for Acton Peninsula. Look at the convalescent care unit. We found out the other day in the Government response to the Social Policy Committee's report that the

commitment to a convalescent facility by this Government is certainly a long way down the track now. We have absolutely no commitment from this Government. Mr Berry himself said in this house that until other health facilities associated with the hospice were built on Acton Peninsula it would cost us a bomb to run. How appropriate is that when we have a health budget that is under the sort of pressure that this health budget is under, or used to be under when we actually had doctors?

I think we have to accept that the people of Canberra deserve a hospice. We need it as part of our health system in this Territory. We need it now, not 10 years down the track, and not in an existing facility on Acton Peninsula either, Mr Berry. If an existing facility is all right on Acton, if building H is all right on Acton Peninsula, then why is not an existing building at Calvary all right? Why is it not all right?

**Mr Berry**: Because it is a hospital.

**MRS CARNELL**: Every other major hospice that has been built in this country of recent days has been built associated with other health facilities.

Madam Speaker, let me get back to the topic. What is this Government going to do about Acton Peninsula? What can we hope for from this Government? Are we going to continue to talk about health facilities or are we going to talk about a real vision for this important bit of land? Are we going to look at something that everybody in Canberra can use, not just 30 people in a convalescent unit 10 years down the track, or 17 people in a hospice, or even another 30 people involved in rehabilitation? Let us look at something that everybody in this community can look at, and that is what the NCPA are talking about. They are looking at getting a vision for this, or coming up with an approach for an important piece of land that everybody in Canberra, in fact, everybody in Australia, will be able to appreciate.

I think that this Assembly has to look at an innovative approach. Maybe we should look at the approach that has been suggested, that we should trade some of the land currently controlled by the Commonwealth on the Kingston foreshore for our rights to Acton Peninsula as long as, obviously, the plans for Acton Peninsula are in the best interests of the people of Canberra. Maybe we should be looking at supporting the proposed National Museum on Acton Peninsula. It is an exciting proposal. Or possibly we should be looking at supporting another national facility; but, quite honestly, I think the people of Australia do want a National Museum. The Acton Peninsula could not be a better site. It might be slightly smaller than was initially planned, but it is - - -

**Mr Berry**: Slightly?

**Ms Follett**: It is about a quarter of the size.

**MRS CARNELL**: But with the use of the island as well it could be a very exciting proposal. Let us look at something that is positive. Let us look at something that is in the best interests of the people in Canberra and stop arguing about hospices placed in inappropriate spots.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (4.00): Madam Speaker, Mrs Carnell bases her criticism of a hospice away from a hospital on very odd grounds. The mind-set of the Liberals seems to be that a hospice is something similar; that what we need is a hospital ward. What we have, in effect, in a modern hospice is people's living rooms and living conditions as near as possible to what they experience in their homes. The object, of course, is to ensure that, as near as possible, we can provide - - -

**Mrs Carnell**: What is the average stay in a hospice?

**MR BERRY**: About three days. It is very important that we provide that sort of environment for those people who use a hospice. It is absolutely silly, in fact, Madam Speaker, I think it is irresponsible, to suggest putting a hospice within a hospital environment and to keep harping on the subject.

**Mr De Domenico**: Why?

**MR BERRY**: It would be substandard - - -

**Mr De Domenico**: Rubbish!

**Mrs Carnell**: That is not the case anywhere else.

**MR BERRY**: It would be substandard - - -

**Mrs Carnell**: That is not what the consultants say.

**MR BERRY**: For Mrs Carnell, like all conservatives - - -

**MADAM TEMPORARY DEPUTY SPEAKER** (Mrs Grassby): Order! Mrs Carnell and Mr De Domenico, you have asked a question. The Minister is now answering it. If you just listen he will answer you. He will tell you why.

**Mrs Carnell**: I did not ask a question.

**Mr De Domenico**: No, it was not a question.

**MADAM TEMPORARY DEPUTY SPEAKER**: Mr De Domenico, I heard you ask the Minister, "Why?". The Minister is telling you why. If you will listen to him you will hear and maybe learn something.

**Mr De Domenico**: I doubt it, Madam Temporary Deputy Speaker.

**MR BERRY**: I agree with Mr De Domenico; I too doubt that he would learn anything, because it just takes too long for it to sink in. It would take too long, and a lot of it escapes on the way.

Madam Temporary Deputy Speaker, we now provide a palliative care service, in people's homes, and we will be trying to provide a home-like environment. It is irresponsible to keep peddling this nonsense about siting a hospice in the hospital. As you would expect from the Liberals, they would like to bring back the past. Hospital based hospices are, in many ways, a thing of the past. The old hospices, of course, are located in hospital grounds, but they are old ideas.

**Mrs Carnell**: That is just not true.

**MR BERRY**: You would like to hang onto the past. I know that Liberals often like to hang onto the past. A lot of old hospices are in hospital grounds. What we are trying to do is to make something new and better for the ACT. We have promised that we will do it, and we will. We have run into difficulties with the NCPA - everybody knows that - but it is not something that is being discarded as a result. The will is still there, the promise is still there, and we will deliver. That is not something that the Liberals like to see. They are always critical of something that makes the Labor Party look good. They have a lot to be critical about, because we so often look good. Madam Temporary Deputy Speaker, I trust that it will be a long time before any of the Liberals need a hospice; but, when they do, it will be the one that was provided by the Labor Party, and they will be very glad of it. It will be based on a promise that was made by the Labor Party, to ensure that we expand our services here in the Territory.

There is one other matter, Madam Temporary Deputy Speaker. Mrs Carnell often gazes upon the money tree down the back of the garden and she sees many things arising from it. She criticises us about the convalescent care unit, and continually says, "It takes only a little bit of money". It is always, "You are spending too much, or too little; you are too fast, you are too slow; you are too high, you are too low", and on and on it goes. It is quite monotonous, but it is at least consistent. You never know where she is coming from, but one thing we can always expect her to say is that it will cost only money. She will continue to gaze upon that little - - -

**Mrs Carnell**: That is not what I said. I said that it would cost you 25 per cent more on Acton Peninsula.

**MR BERRY**: What about the convalescent care unit? Will we get that for nothing? No, we get that off the little tree down the bottom of the garden, the money tree. We will go down and pluck a few notes off the money tree. It is the same, "It takes only money. Don't worry about it, Labor Government; it takes only money". And when we spend a little money we are criticised for that as well. We never expect to win in the minds of the Liberals, and we are not trying to now. What we are going to do is deliver on a promise in relation to health facilities on the Acton site. It will happen. It will happen, whether the Liberals like it or not.

**MR DEPUTY SPEAKER**: The discussion is concluded.

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

**MRS GRASSBY**: I present report No. 23 of 1993 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I ask for leave to make a brief statement on the report.

Leave granted.

**MRS GRASSBY**: Report No. 23 of 1993 contains the committee's comments on nine Bills, 11 pieces of subordinate legislation and one Government response. I commend the report to the Assembly.

## PLANNING, DEVELOPMENT AND INFRASTRUCTURE - STANDING COMMITTEE
## Report on Draft Variation to the Territory Plan - Kambah

**MR LAMONT** (4.06): I present report No. 17 of the Standing Committee on Planning, Development and Infrastructure on the draft variation to the Territory Plan - Kambah, section 7, part block 11, which is part of Gleneagles Estate, together with a copy of extracts of the minutes of proceedings. This report was provided to the Speaker for circulation on Friday, 10 December 1993, pursuant to the resolution of appointment. I move:

That the report be noted.

This variation is in relation to a change to some of the planning densities in the Gleneagles Estate in Tuggeranong. It basically provides that, in lieu of 19 medium density dwellings, the developer be allowed to produce nine standard residential lots. The PDI Committee invited the one objector to a meeting with the committee, as well as the proponent and the planners. The basis of the objector's concerns was in relation to a road that was to pass in front of his house. Additional traffic would pass, were we to approve the variation.

Following discussion with the traffic engineers, the committee was satisfied that, while a resident has a legitimate entitlement to raise the types of concerns that he did, we could not find any inherent deficiency in the road construction and/or design. Indeed, the purpose of the road construction in this area is to reduce traffic speed in this part of the development. Therefore, the committee unanimously endorsed the variation. That report is before us this day.

**MS SZUTY** (4.08): I want to comment briefly on the variation that is proposed to be accepted by the Assembly. As Mr Lamont mentioned, we did have one objector who came along and made representations to the committee. I think it would be fair to say that committee members are always pleased to hear from members of the community who have particular concerns about planning matters. I made inquiries as to whether people buying into that particular part of the Gleneagles Estate had been notified about the proposal to build another nine dwellings on nine additional blocks in the area. I was told that the process has been satisfactory as regards informing people who are moving into the area about further likely development in the area, and I was happy to support the variation.

Question resolved in the affirmative.

## LAND (PLANNING AND ENVIRONMENT) ACT - VARIATION TO THE TERRITORY PLAN
## Papers

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning): Madam Speaker, for the information of members, I present approval of variation No. 7 to the Territory Plan for Kambah, section 7, block 11, part of the Gleneagles Golf Course Estate, pursuant to section 29 of the Land (Planning and Environment) Act 1991. In accordance with the provisions of the Act, the variations are tabled, together with the background papers, a copy of the summaries and reports, and a copy of any direction or report required.

## STAMP DUTIES AND TAXES (AMENDMENT) BILL (NO. 3) 1993

Debate resumed from 14 October 1993, on motion by **Ms Follett**:

That this Bill be agreed to in principle.

**MR HUMPHRIES** (4.10): Madam Speaker, the Stamp Duties and Taxes (Amendment) Bill (No. 3), as the name implies, is one of a series of Bills we have considered this year in respect of taxation. Like the other Bills that have been considered by the house, it has presented the Opposition with some difficulties. I can advise the house that it is the view of the Opposition that the issues that concerned us are matters we are prepared to accept, on advice from the Government, can be resolved through the practice the Government employs in administering this legislation. It should not therefore need to result in any amendments, for example, to the legislation.

To outline briefly what this legislation is all about, it contains a number of somewhat unrelated provisions. One deals, importantly, with insurance arrangements. The Government has advised us that it believes that there was a problem, not just in the ACT but in Australia generally, with people arranging insurance outside of Australia, in particular, from companies overseas, with the result that the ACT, and possibly other Australian jurisdictions, have lost some revenue by way of stamp duty on the transactions for insurance, notwithstanding that the assets or objects being insured in this process are objects based in Australia.

The Government has sought through this Bill to ensure that a person who arranges insurance overseas - and this would apply, by the same token, in another State of Australia - with a body that is not a registered insurer will be liable for the payment of stamp duty on that contract of insurance. That concept gave us some concern initially because it entailed the concept of somebody being liable for payment of stamp duty in a way that is most unusual. For the most part, individuals who obtain insurance do not pay stamp duty directly. They pay some component of stamp duty in their premium and the insurer provides the payment of stamp duty to the government concerned.

It was our concern that this Bill would result in some way in there being an unrealised responsibility on the shoulders of an insured person to pay stamp duty, and that may still be the case, although I am assured that the Government's intention is not to pursue individuals who inadvertently breach this law but, rather, large companies, corporations, who regularly exploit their situation to avoid - arguably the word there is "avoid" - stamp duty obligations in Australia, and in this case in the ACT. If Mrs Jones decides to insure her Etruscan vase, which is difficult to insure in Australia, with a company in London, she will be nominally liable for payment of stamp duty, even though it is possible that in paying her premium for her insurance she is also paying a component of stamp duty for the contract of insurance in London.

However, the Government assures me that these are not the sorts of people it is after with this arrangement and that in any case there is a very significant problem of enforcement. The problem of enforcement was raised with the Opposition by the Insurance Council of Australia. I think it is worth noting that this Assembly was well advised to have left this matter off the agenda until this week because a body like the Insurance Council of Australia, with a very significant interest in the outcome of this legislation, in fact knew nothing of the legislation coming before this Assembly.

**Mr Cornwell**: Why not?

**MR HUMPHRIES**: The reason, to answer Mr Cornwell's interjection, is that they were not advised.

**Ms Follett**: Who was it?

**MR HUMPHRIES**: This is the Insurance Council of Australia, who one would think, with a piece of legislation dealing with insurance, might have been consulted about the passage of the legislation.

**Ms Follett**: They were.

**MR HUMPHRIES**: That is not my advice, Madam Chief Minister. My advice is that they knew nothing about the legislation before it arrived on the floor of the Assembly. In fact, when I rang the Insurance Council's representative in Canberra last week to ask what they thought of this legislation, they said, "What legislation?". I must say that it is one more small but significant example of how this Government just does not bother to find out what the people of this Territory think about legislation that might affect them.

**Ms Follett**: It is their idea.

**MR HUMPHRIES**: The Chief Minister interjects - quite contrary to standing orders, of course, Madam Speaker - that the origin of this idea is that the Insurance Council wants to tighten up on insurance controls. That may be the case. It may have been an idea that originated with the Insurance Council, but I think it would be fair for the Government, having acted on that particular matter, to advise the council that it proposed to do so. It certainly had no idea that it was coming up, and that is a somewhat unreasonable position to be in.

There is a problem with enforcement, as the Insurance Council pointed out. It is very hard to work out whether somebody has entered into an arrangement to contract for insurance in an overseas country, or in another State of Australia, when these contracts of insurance do not need to be registered, nor should they be. I gather that the situation within Australia is not a real problem because, I am advised, insurance companies who provide insurance in Australia understand the requirement to be registered in particular jurisdictions where they propose to provide insurance, that is, where the asset or object which is the subject of insurance, or the person, for that matter, who is the subject of insurance, is actually resident. So in real terms there would be no problems since insurance companies in Australia understand this obligation. There may be a problem with overseas companies; but, again, I take the word of the advisers that this is not going to be a practical difficulty.

The Bill also provides for another matter, that is, the provision of exemption from stamp duty obligations on the transfer of assets, including property owned by organisations, whether employer or employee organisations, pursuant to the Federal Government's Industrial Relations Act of 1988. That Act is designed to produce larger organisations, particularly larger trade unions. Clearly, the Commonwealth has approached the States and Territories to facilitate this by providing for an exemption from stamp duty where organisations amalgamate and one organisation transfers its assets to another. It is clear that that is an appropriate kind of arrangement pursuant to that scheme, and it has the support of those on this side of the house.

A third matter that is raised in this Bill contains some deficiencies, but I think they can be dealt with by a suggestion from this side of the chamber being taken up by the Government by way of regulation. It is the intention of the Government to extend into legislation an arrangement it has had in place by administrative order since some time last year to provide that, where people who are partners to a relationship transfer property into joint names, pursuant to an agreement between them, those people should be able to obtain an exemption from stamp duty. That exemption from stamp duty already exists in the Act in respect of people who are married, and it is intended that this should be extended to people who are in de facto relationships, pursuant to the Government's intention to ensure that people in that position are not disadvantaged relative to people who are formally married.

I note one small point before proceeding to the main point of this observation. The terminology used in the interpretation clause which is to be included in the substantive Act is as follows:

> 'spouse', in relation to a person, includes a person who lives with the first-mentioned person as his or her spouse, although not legally married to him or her, on a bona fide domestic basis, and has so lived for a continuous period of not less than 2 years.

**Mr Connolly**: It is a standard definition - in Commonwealth superannuation legislation, for example.

**MR HUMPHRIES**: Yes, but it is not clear to me whether Commonwealth superannuation legislation applies to couples of the same sex. The Chief Minister has shaken her head and indicated that this is not intended to apply to same-sex couples.

**Ms Follett**: Not at this stage.

**Mr Connolly**: Our de facto legislation before the Assembly will.

**MR HUMPHRIES**: Yes. I can hear objections from those opposite, but I am making the point merely that this wording is fairly broadly drafted. It occurred to me that it would be open to interpretation to say that it includes all people who live on a bona fide domestic basis. Those are the words used in the Bill. Perhaps the Chief Minister could - - -

**Mr Connolly**: A spouse means a person living as a spouse.

**MR HUMPHRIES**: It is open to some doubt, it seems to me, and it would be helpful if the Chief Minister could clarify what the intention of the Bill is in speaking to this matter. I am making no objection to whatever interpretation she chooses to place on it. I merely think it would be helpful for the courts, in interpreting this, if they understood what was intended, so that there was no question of ambiguity.

The final point deals with the question of extension of the right of people to transfer assets into joint names. It is proposed to include in Schedule 1 of the principal Act a new paragraph allowing for a conveyance to be exempt, namely:

(db) by a person to his or her spouse of an interest in property that is, at the date of the conveyance, used as their principal place of residence, if the conveyance results in the interest in the property being held by the spouses as -

(i) joint tenants;

(ii)tenants in common in equal shares; or

(iii)tenants in common in shares that are proportionate to the contributions of the spouses towards the purchase and improvement of the property or in such proportions as are prescribed.

Leaving to one side the question about prescribing particular proportions, the issue that needs to be faced is how useful that provision will be. Take, for example, the case of a couple who have been married for a number of years. Husband and wife have a house but the house is in the husband's name. Pursuant to this arrangement, the husband wishes to make sure that the wife's equal interest in the home, as reflected by the principles of the Family Law Act, is reflected in the title deeds. The husband arranges to transfer a half share in the house to the wife. Under the terms of this arrangement, that would be exempt from stamp duty.

Consider a second case: Husband and wife get married; husband owns a house; husband also owns an investment property. He owns two properties. The husband wishes to make his wife an equal partner in their relationship and to share equally the goods of that marriage and therefore wishes to ensure that both parties are equal owners of the property of the marriage. The provisions here will

not assist them in doing that, except so far as it is possible to divide equally the family home. By giving the wife a half share in the family home, the husband is providing for the wife to have only a quarter share in the total matrimonial property, not a full half share, which is the intention as exhibited by the words of paragraph (db).

Take a further example, an example which I might say I take from personal experience: I marry a person and I have a property of my own in which I live. My wife has a property of her own in which she has previously lived. My wife moves into my home and my home becomes the joint matrimonial home. Under these arrangements, I am capable of transferring a half share in the matrimonial home to my wife, but the result of that will be that my wife will own three-quarters of the total matrimonial property, as it were, and I will own one-quarter. In those circumstances - - -

**Mr Connolly**: A woman having greater rights than a man? Dear, oh dear!

**MR HUMPHRIES**: It cuts both ways. It also happens the other way. A husband marries a very wealthy wife with many assets. The husband wishes to obtain an equal half share. He cannot do so because - - -

**Ms Follett**: I should think not. He can make his own money.

**MR HUMPHRIES**: I think the Chief Minister is exhibiting her deeper feminist tendencies here, Madam Speaker. This legislation is designed to provide equality between the parties, to allow them to own assets of the family equally, or in proportions that reflect their contributions towards the properties acquisitioned. It would seem to me that it is possible for the Chief Minister, the Government, by using the power to prescribe proportions, to allow that parties should be able to hold in proportions which reflect their ownership of all the matrimonial property, not just the matrimonial home.

Let me make it quite clear that I am not suggesting that exemptions from stamp duty should be applied to assets other than the family home. That would clearly make an exemption much larger than the Government is intending in this case. To go back to my example, a man and woman marry, and the husband owns the home in which they live and another home. By allowing the husband to transfer ownership of the entire family home into the wife's name, he would be providing for an equality between the two parties. That is, because he owns the investment property and the wife owns the matrimonial home, there is an equality between the two parties. That cannot be achieved under the present legislation. I ask the Government to consider that matter and perhaps think about prescribing proportions under the prescription provisions in paragraph (db) to cover that eventuality. Those are the comments of the Opposition, Madam Speaker. Generally speaking, the legislation pursues goals which are laudable and which the Opposition is happy to support.

**MS FOLLETT** (Chief Minister and Treasurer) (4.26), in reply: I thank Mr Humphries for his support of this Bill. I will deal generally with the Bill, before I address Mr Humphries's specific concerns. As Mr Humphries has pointed out, the Bill does provide for an extension of further stamp duty concessions to spouses and employment organisations, and it introduces measures to protect the Territory's revenue base in respect of insurance premiums.

Mr Humphries raised a number of issues in relation to spouses. Can I say, first of all, that the term "spouse" has been extended in this Bill to include persons in de facto relationships. That recognises that there is an increasing number of such couples in our community - couples who have not undergone a formal marriage ceremony - and that there is wide community acceptance of these kinds of relationships. I am advised that the term "spouse" is defined in common law as man and wife. I am sure that Mr Connolly is correct in his advice to me on that matter. The issue of whether some relief from stamp duty should be available for other domestic partnerships - - -

**Mr Connolly**: Man and wife; heterosexual expanded to de facto. We will make it homosexual with our de facto Bill before the Assembly.

**MS FOLLETT**: Thank you. The issue of whether some relief from stamp duty should be available for other domestic partnerships, for example, homosexual partnerships, will be addressed in the context of the proposed domestic relationships legislation. It is not something we have overlooked; we will take it up under another heading. We have had a discussion paper prepared on that topic and the community has been invited to make submissions on that discussion paper. The concession that is afforded to employer and employee organisations that amalgamate will do no more than bring the Territory into line with other States and the Northern Territory.

In relation to stamp duty on insurance premiums, the amendments that are proposed will ensure that all premiums relating to a risk located in the ACT are subject to duty. Currently, if a person insures with an insurer located overseas, they are not liable to duty, which is considered to be inequitable. Mr Humphries raised the question of whether or not this matter had been discussed with the Insurance Council of Australia. I can assure Mr Humphries that consultation has occurred. Where there appears to be some conflict is over the fact that the consultation the Revenue Office undertook was with the peak body. Mr Humphries may have contacted the local ACT office - he is agreeing - and that would account for it. So there has been proper consultation. The Insurance Council of Australia had previously expressed concern about the practice of insurance brokers directing customers to overseas insurers. The view expressed at the time of consultation with the industry was that it was desirable for local insurers to be used, rather than overseas insurers, due to the potential problems that could arise in dealing with people overseas who are not constrained by Australian laws. So we are attempting to address the concerns of the Insurance Council.

Finally, Mr Humphries dealt with the question of confining this concession to the principal place of residence, and he outlined a number of possible scenarios that might occur on the marriage of people who each own property. I think there are a number of views you could take on this issue. Mr Humphries has clearly taken the term "matrimonial property" to include what is in fact a commercial property.

It is not the matrimonial home but a matrimonial commercial property, that is, if the couple move into one house and retain the other as a commercial proposition. You could argue that case backwards and forwards. But the view that has been taken is to reinforce the fact that this concession is made in family relationships, not in commercial relationships that might arise as a result of marriage.

The view of the Revenue Office is that an integral part of the family unit is the family home but not so much the commercial residences, commercial properties, that any family might also hold. The concession is offered for the reason that the family home is that which provides shelter and security for family members in that relationship, and commercial property, whether it arises as a result of marriage or not, does not have that same place in our society and in our family system. This concept is seen as quite separate from the transfer of other assets that potentially might be involved in business or investment interests. Such interests could include, for example, large numbers of shares. Whether Mr Humphries would equally argue that they should be divided equitably and with stamp duty concession I do not know, but I would argue that they probably should not. The transfer of such interests would normally attract some tax obligations, whether stamp duty, capital gains tax, income tax or whatever.

I can see a clear distinction. Mr Humphries is not so clear on that distinction. Nevertheless, it is a matter that we should keep an eye on and perhaps continue to debate. I think Mr Humphries's proposal would amount to what could be seen as an exploitation of that notion of principal place of residence. Obviously, it would most benefit those with very valuable homes, and there is an issue of equity there. If members want to extend this concession to other property, they should do so directly, I believe - not in this indirect fashion. For the Government's part, and on my present understanding of the issues, my present review of them, I do not believe that this concession for domestic relationships should be extended to what in effect amounts to commercial property, albeit that it is held by people in a domestic relationship. I will keep it under review; but, for Mr Humphries's information, that is the thinking behind it at the moment.

To conclude, I thank members for their support of the Bill. I think it is particularly significant in that it does extend concessions to a group of people who have not enjoyed them before, some of whom have written to me expressing the view that they were being discriminated against. I am sure that no member here would wish people to be discriminated against in that way on the basis of their marital status, and I think it is time we addressed that matter. I look forward to the time when we address it further by taking the notion of domestic relationships further, so that there is no longer any discrimination, no matter what sort of domestic relationship people are in.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Bill, by leave, taken as a whole

**MR HUMPHRIES** (4.35): Madam Speaker, I wish to respond to a couple of matters the Chief Minister has raised. I do not wish to extend the debate indefinitely, but I want to make it crystal clear that I am not suggesting that the Government should extend concessions on payment of stamp duty beyond the family home. What I am saying is that, in granting a concession over part of the family home, one should treat it as part of a wider number of assets that are owned by parties to a marriage or to a partnership. Where there are other considerable assets outside the matrimonial home, we should take them into account in deciding what is most equitable in giving an equal division between the two parties to a partnership or to a marriage.

I point out that this suggestion would work in the vast majority of cases very much in favour of women. It is women who most often are unable to enjoy their capacity to create as many assets as men, whether husbands or partners, and therefore it is to their advantage to have the whole of the matrimonial home considered as part of an arrangement which provides equity between the two parties. I go back to the example of a husband and wife who marry. The husband has considerable assets of his own. The most the wife can expect out of that arrangement, to obtain some equality free of payment of stamp duty, is half the matrimonial home. That might provide for the wife still having only a very small proportion of the total assets of the family. By giving her the capacity to take the whole of the family home, one would see in those situations her having perhaps not total equity but certainly a much larger degree of equity within the family arrangement. Again, we are not talking about anything outside the family home.

There is one other matter I think we have to touch on, namely, the question of matrimonial agreements. Solicitors very frequently these days advise people who are getting married to consider matrimonial agreements, and the Family Court is also, as I recall, favourably disposed towards considering these agreements as a way of sorting out potential problems in divisions of property between partners. A matrimonial agreement might provide for some division other than 50 per cent to each of the parties, or other than proportions which reflect the contributions of the spouses towards the purchase and improvement of the property. Under this arrangement, a matrimonial agreement could not be honoured in terms of the provisions of this paragraph.

Given that matrimonial agreements are very much part of the Family Court's process of regulating arrangements between parties, I ask the Chief Minister to consider extending this legislation by regulation to cover agreements made between the parties before they get married.

**MS FOLLETT** (Chief Minister and Treasurer) (4.38): To respond on the spot to what Mr Humphries has said, we will certainly keep that matter under consideration and review it if needs be. I must admit that I have not considered the question of matrimonial agreements. If it appears that this Bill could be impacted by such agreements, obviously we will need to look at changing it.

It is a matter of keeping all legislation under constant review and making sure that the advice we get is relevant and up to date and reflects the community we live in. I think Mr Humphries is right to raise that issue, and all I can do is undertake to ensure that that review is maintained.

Bill, as a whole, agreed to.

Bill agreed to.

## LEGAL PRACTITIONERS (AMENDMENT) BILL 1993

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

That this Bill be agreed to in principle.

**MR HUMPHRIES** (4.40): Madam Speaker, I do not wish to speak for long on this Bill. Unlike the previous Bill, at least on my advice, it is the product of considerable discussion and negotiation between the Government, or agencies of the Government, and the Law Society of the ACT, the most directly affected part of the community. It reflects, I understand, considerable agreement between those bodies on what is the best way of ensuring that the legal profession in the ACT is highly accountable and properly regulated in a way which provides a high quality of service to people who use solicitors.

Much of the Bill is schedules, which provide for the updating of the language of the Act and otherwise achieve what I might call some superficial improvements to the structure of the Act. The substance of the Bill deals with the regulation of complaints against solicitors; the capacity of the ACT to ensure that people who are solicitors and who become, for example, bankrupt, or apply for some scheme of arrangement for their affairs, are able to have the affairs of their clients protected properly, that is, through the appointment of managers and other procedures provided for in the Act. It also ensures that it is clear what matters may be dealt with by the Law Society under its jurisdiction, which is a traditional jurisdiction in the ACT at least, to provide for regulation of the affairs of solicitors. The Law Society is in a perhaps privileged position in being able to say to its members, "You will adhere to certain principles", and those principles are in a sense a reflection of the standards which the profession itself tries to uphold.

The Law Society presently has a disciplinary committee which this Bill retitles the Professional Conduct Board. The Bill sets out clearly the sorts of professional behaviour which would not be acceptable in terms of ethical conduct of solicitors, and it provides for regulation by the Law Society through its Professional Conduct Board of that kind of behaviour. Madam Speaker, for the most part the legislation is a reflection of that tightening up of the arrangements, providing for some flexibility, but also ensuring a greater degree of protection for individuals who use lawyers in this city.

I put on record very briefly that the provisions, particularly proposed new section 24 of the Act, provide for professional misconduct including conduct that would be contrary to that which a fit and proper person to remain on the roll of barristers and solicitors would engage in. My party is not in favour of broad-ranging terms like "fit and proper person" because they end up being a catch-all phrase which necessarily allows administrators, bureaucrats, or in this

case other members of the profession, to blackball somebody on the basis of ill-defined criteria. I would be happier, and my party would be happier, if clear terms were spelt out explaining what is meant by being a fit and proper person to remain on the roll of barristers and solicitors. I would be happier for us to specify exactly what we mean by behaviour which is unacceptable. To some extent this Bill does that, but not to the extent that it has been possible to dispense with the phrase "a fit and proper person". I make that point in passing. We do not propose to amend the Bill, but I indicate that that is our ongoing concern about those kinds of phrases.

Madam Speaker, the Bill does provide for, I think, a high degree of accountability on the part of the ACT's legal practitioners. It ensures, as the Minister indicated in his presentation speech, that the disciplinary process for legal practitioners in the ACT is responsive, efficient, open to public scrutiny and well publicised. Some of the provisions dealing particularly with the disclosure of solicitors' names, and so on, are significant developments which, I think, we can support. Madam Speaker, I commend this Bill to the Assembly.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.44), in reply: I thank Mr Humphries for his support for the legislation. As I said in the introductory speech, this is rather like the legislation we debated last week amending the Supreme Court Act. This is a first strike at reform of the legal profession. This process, as Mr Humphries said, comes out of a long process of consultation going back some nine years. One would normally hope that the consultation process would result in quicker results. From here on we need to further reform the legal profession, particularly with a view to bringing in more lay involvement in disciplinary matters. I have indicated previously that we see benefit in tribunals that involve not just the profession but increased lay membership. There is a lot of work being done around Australia on reform of the legal profession. The Trade Practices Commission has just handed down a major report. The New South Wales Government has just introduced a very major piece of reform, and the Commonwealth Government has appointed Professor Ron Sackville, now of the Sydney bar, to advise it on reform of the legal profession.

The view of the ACT Government is that we will not be going through a further major inquiry process about what to do, as much as looking at what other States have done and looking at how to do it. We want to move fairly swiftly on this process. I would expect that next year we will see a fairly major exercise in bringing the ACT into line with reforms in other States, to the extent that we are not already there, bearing in mind that in some areas - such as the absence of scaled fees, permission to advertise legal services, and the abolition of a distinction between barristers and solicitors - we are already in the forefront. I thank members for their support for this long awaited and significant first strike in the reform process.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to**.**

**Sitting suspended from 4.46 to 8.00 pm**

## NATIONAL CRIME AUTHORITY (TERRITORY PROVISIONS) (AMENDMENT) BILL 1993

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

That this Bill be agreed to in principle.

**MR HUMPHRIES** (8.01): Mr Deputy Speaker, the Opposition will be supporting the Bill before the Assembly tonight. The National Crime Authority is a body with which members will have at least some passing familiarity. It is necessary for the fight against crime, particularly crime of a national kind - that is, crime which operates not just in a single jurisdiction but, in particular manifestations, across several jurisdictions and which needs to be fought at a national level. The National Crime Authority has been the response of State, Federal and Territory governments to that problem.

This Bill is part of a national arrangement. I understand that this Bill's provisions will be reflected in legislation in every other jurisdiction in Australia. This Bill will provide for the extension of the powers available to members of the Authority, and members of the judiciary, in certain circumstances. The powers, essentially, to summarise them, are powers to ensure that persons who receive summonses or notices to provide information to the Authority will be required to provide for a level of confidentiality in the information that they are to provide, lest certain persons who are being investigated be alerted to the fact of the investigation, thereby possibly circumventing or short-circuiting that investigation proceeding. Obviously, a certain degree of secrecy is required, and that is apparent from the face of the case that is made on this document. I think that we can support it, Mr Deputy Speaker.

I note that a judge is able, by virtue of proposed new amendments to section 19 of the Act, to issue a warrant for the arrest of a person where that person has committed an offence under subsection 19(1) or is likely to do so. Members will recall that there has been debate in this chamber about the likelihood of the commission of crimes in other circumstances. I might point out that this is where a judge considers that there is likely to be a breach of a provision. I think that we on this side of the chamber are very comfortable with that kind of provision in the hands of a judge. Mr Deputy Speaker, I understand that the Attorney proposes to correct, through a Clerk's amendment, a minor matter raised by the Scrutiny of Bills Committee. With that done, this Bill will have the support of this side of the chamber.

**MR CONNOLLY** (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (8.04), in reply: I thank the Opposition for their support for this proposal, which, as Mr Humphries set out, essentially corrects an anomaly whereby people who were under notice of the NCA, and that usually involves fairly major matters, were getting advance notice of the NCA's interest through being notified of requests for documents. All States and Territories, I understand, will be passing similar amendments so that the NCA retains its national focus.

There was a minor error picked up by the Scrutiny of Bills Committee in its report No. 22 of 1993, which noted that the words "a person" would have appeared twice in paragraph 5(c) of the Bill, and that there was an incorrect cross-referencing to subsection 19(1) when it should have been subsection 18(1). I can advise the Assembly that the Assistant Parliamentary Counsel wrote to the Clerk on 7 December pointing this out, and it will be dealt with, pursuant to standing order 191, as a typographical error. That is a simpler process than having to bring in amendments to Bills to correct minor errors. I thank the Assembly for its support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## HEALTH COMPLAINTS BILL 1993

[COGNATE BILL:

OMBUDSMAN (AMENDMENT) BILL (NO. 2) 1993]

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

That this Bill be agreed to in principle.

**MR DEPUTY SPEAKER**: Is it the wish of the Assembly to debate this order of the day concurrently with the Ombudsman (Amendment) Bill (No. 2) 1993? There being no objection, that course will be followed. I remind members that in debating order of the day No. 4 they may also address their remarks to order of the day No. 5.

**MRS CARNELL** (Leader of the Opposition) (8.07): Mr Deputy Speaker, it is with pleasure that I rise to speak on this Bill. It is a Bill that I wholeheartedly support in essence. The Bill goes a long way to rectifying a difference in power between health providers and health consumers. As a health provider in another life, I can say that one of the great problems that you see is the fact that the consumer really is, to a large extent, at the mercy of a doctor, a hospital, a pharmacist, a nurse, a dentist or whatever we are talking about. It is particularly important that we have in place mechanisms to make sure that the consumer actually has some power in this relationship.

This Bill sets up or establishes the position of a Commissioner for Health Complaints to receive complaints over a wide range of areas, in both public and private health services. The Commissioner for Health Complaints is a statutory officer, totally independent from ACT Health, and is obliged to act impartially in the public interest and to observe the principles of natural justice - something

that the Liberal Party wholeheartedly supports. The Bill also establishes a Health Complaints Unit. It goes further than that. It sets up a Health Rights Advisory Council. This council will be responsible for providing advice to the Minister for Health and to the Commissioner for Health Complaints. Membership will be, I understand, from both users and providers, and will be, again, totally impartial and separate from the arms of government.

The Bill will set in place the development of a code of health rights and responsibilities for users and providers of both public and private health services - again an approach that will further equalise the rights between the consumer and the provider of health services. The Bill in essence sets up a mechanism whereby conciliation and investigation of complaints can be carried out. It also sets up mechanisms by which complaints can be referred to health registration boards, where they can be investigated further and appropriate action can be taken. Again that is something that we totally support. Formal conciliation of complaints will be with the agreement of the complainant and the provider, with the facilitation of a conciliator. The role of the conciliator will be to assist and facilitate the resolution of the complaint.

What we are seeing here, Mr Deputy Speaker, is a mechanism by which problems that exist in the health marketplace can be overcome before they actually get to any punitive style of action. The Health Complaints Unit does have the capacity to pass a complaint on to the police or, alternatively, to the ACT Ombudsman, if that is the appropriate course of action. It also has the capacity to deal with serious and complex complaints, and Part V of the Bill has in it many very appropriate mechanisms to handle that. As I said, Mr Deputy Speaker, this Bill goes a long way to actually creating equity, to equalise power and to make sure that the health sector in the ACT works better.

We do have some concerns about this Bill, though, Mr Deputy Speaker. The major one is that, as I understand it, the amount of money set aside to put this legislation in place is $200,000 per annum. I understand that this is supposed to be used to set up a unit with five employees - a commissioner, two senior staff, an inquiry officer and an office manager. I do not know how $200,000 can cover five salaries, let alone oncosts, rent and all of the other appropriate bits and pieces that will be required to make this unit actually work. It is really very important that it does work. The Bill does put in place mechanisms by which other people can be taken on as consultants. Other people who are needed can be taken on board. I think it is very important that a unit of this size and of this importance is adequately funded.

It is also important that a unit like this is not subject to duplication. In answers to questions that I have asked the Minister over the last couple of months he has indicated that existing complaints mechanisms will be kept in place. That means that the complaints mechanisms that exist in Civic, the hospital, some health centres and so on will continue to exist. If we are going to make a single, very obvious and very transparent complaints unit work, there has to be just one. The basis of any unit like that is to protect the public, not to protect the providers, the bureaucracy, the hospital or the health centres. We must be confident that there are no cover-ups and that whatever happens happens with a total flow of information. Otherwise the whole point of the exercise is lost. I am concerned that with duplication between various complaints mechanisms that may not happen. I am sure we all hope that it will not happen.

I have seen, as I am sure the Minister and others have, complaints made to the hospital. When you look at the responses, the complaints have been glossed over and have not been handled terribly appropriately. I suppose there are lots of excuses. It is very important, if we are going to set up this unit - it is one that we totally support - that that sort of glossing over of inefficiencies in the system does not happen.

**Mr Berry**: You are talking nonsense.

**MRS CARNELL**: I hope that I am. I am sure that you will tell us why it is nonsense. It is also very important that the professional boards are appropriately fitted into this whole legislation. As we know, when you come to health complaints, there are some complaints that are actually the basis of illegalities. A provider has done something that is illegal and therefore the police can actually do something about it. The vast percentage of complaints are against conduct that is unprofessional, that is inefficient; but let us get back to the unprofessional conduct. The only mechanism that we have in our community to do something about providers that are unprofessional is via our professional boards. They are the only people who have power to do anything about providers that do not do anything illegal but are unprofessional. Therefore, our boards must be utilised properly. The amendment that I will move later will greatly enhance the capacity of our boards to adequately protect the public.

What we have to focus on here is that the only reason that this Assembly tonight will be passing this legislation is to better protect the public. It is to give the public a very definite and very obvious way of complaining about problems that they perceive they have, in both the public sector and the private sector of health. I think that can give us a better health system, in both the public sector and the private sector. I know that the rest of the Liberal Party feel the same way. We certainly have a lot of concerns about the consultation approach that was taken with this Bill; but Ms Szuty, I am sure, will elaborate on that. In essence, Mr Deputy Speaker, we support this Bill. We certainly will be looking for support for our amendment which I will speak on later.

**MS SZUTY** (8.16): Like Mrs Carnell, I support the Bill in principle, and I recognise that the establishment of the Health Complaints Unit is a matter that the Government has been working towards for some time. However, I do want to talk in some detail this evening about the consultation process which was involved in the consideration of this issue. To consider how the Government in the Assembly - - -

Members interjected.

**MR DEPUTY SPEAKER**: Order!

**MS SZUTY**: Thank you, Mr Deputy Speaker. In fact, my remarks are particularly for the benefit of the Minister for Health, Mr Berry, who does not appear to be listening to me at present.

I want to speak in some detail to the Government and the Assembly on the consultation process that was followed in considering this piece of legislation. The draft Health Complaints Bill, as we know, was released as an exposure package from 26 August this year until 30 September. We know from the Minister's presentation speech that the Government also distributed 300 copies of

the package to 100 different community groups, professional associations, health registration boards, interested individuals and committees, medical defence funds and interstate agencies. The Assembly knows that 15 submissions were received from these individuals and groups who were interested enough in the establishment of the Health Complaints Unit to respond to the ACT Government formally and in writing, and I know of the content of those submissions, Mr Deputy Speaker, because I agreed to view them on a confidential basis.

While the Assembly knows, from the Minister for Health's presentation speech, that relevant amendments have been made to the Bill in the light of some of the comments concerning policy, the Assembly does not formally know of the exact outcome of the results of the submission process and whether those individuals and groups who went to the trouble of responding to the Government regarding this issue are totally happy and accepting of the outcome. I want to suggest now a process which I believe should have been followed with regard to the final determination of this matter.

The point that I would like to make, Mr Deputy Speaker, is that ultimately the Assembly is responsible for the passage of legislation in the ACT, not the ACT Government, which, in reality, as we know, does not have the numbers to decide any issue apart from a no-confidence motion proposed in the Chief Minister or the passage of the Supply and Appropriation Bills. I have said already that I support the Health Complaints Bill in principle, and I do. I believe in the concept of facilitating access by health consumers and residents of the ACT to health complaints mechanisms. But, as a member of this Assembly, I want to have access to all of the information which is available regarding the Bill. I really should not be placed in a position where I am expected to accept the Government's word that they have substantially addressed the issues which have been raised with them.

The Government, I believe, needs to accept that draft exposure legislation will be referred to the appropriate Legislative Assembly committee for inquiry and report. Should the Government consider this to be an unnecessary step in the process, or should the committee decide, for whatever reason, that it will not take up the reference, the submissions received should then be made available to Assembly members to view as a matter of course. The Government should make clear to individuals and groups intending to respond to draft exposure legislation that their submissions potentially could be viewed by all members of the Legislative Assembly. After all, as I have said before, the Assembly decides the fate of proposed legislation, not the ACT Government. Ideally, in this instance, I believe that the Social Policy Committee of the Assembly should have accepted the submissions received by the ACT Government in August and September of this year and recommended changes to the draft exposure legislation as a result of an open consultative process.

It remains unclear to me at this time whether those 15 individuals and groups are happy with the final format of the Bill or believe that they have had their concerns addressed. I did establish today, Mr Deputy Speaker, that copies of the final version of the legislation were distributed to those groups on 7 December, exactly one week ago. I further understand that the Minister sent all the individuals and groups who responded to the draft exposure legislation a letter of general thanks for their contribution but did not address specifically the issues that they had raised in connection with the legislation.

Mr Deputy Speaker, over the last two weeks I have seriously considered whether or not I would move at this stage to refer the Health Complaints Bill to the Social Policy Committee of the Assembly. I have decided against so doing at this time, however, because I noted the in-principle support given by those individuals and groups to the draft exposure legislation. However, I firmly believe that an Assembly committee process would have been an effective method of resolving many issues of policy and detail prior to the passage of the final legislation.

**MR MOORE** (8.21): Mr Deputy Speaker, the Health Complaints Bill has been long awaited by the community. It is appropriate that credit be given where it is due, and credit goes to the Minister for getting this Bill before us and for carrying out a promise that he made at the last election. It seems to me that this legislation will give people in Canberra an opportunity to do something about a series of frustrations that have been part and parcel of the lives of some people who have had to deal with health issues in Canberra. Most members here, if not all members, would have had people come to them seeking solutions. Often those solutions were not attainable by our normal methods of lobbying and trying to resolve issues for constituents.

The Health Complaints Bill, when it becomes an Act, will provide methods by which people can have complaints resolved, and it will be a positive contribution to community health. I use that term "community health" in the broad concept because the empowerment of individuals and the empowerment of people is basic to a concept of a healthy community. This Bill goes a long way towards that and is a credit to the Minister. I think it will be a credit to the Assembly when it is passed. No doubt, in a project like this, there will be some issues that will need to be revisited. I would expect that this Bill, when it becomes an Act, will need to be amended from time to time over the next couple of years as new problems arise and as we seek to resolve the sorts of issues that have been dealt with by members in other ways over the last couple of years.

Mr Deputy Speaker, I foreshadow that I will be moving some amendments to the Bill. They have been circulated to members, I understand. They are similar to amendments I have moved to previous Bills and mean that appointments to positions under this legislation will be subject to disallowance. I think it is fair to say that this approach has not caused any great heartache to Ministers or to this Assembly. That power has been dealt with very reasonably. By and large, the appointment of people to positions has been open and has been discussed, when the appointment has been handled as a disallowable instrument. I think that it would be sensible for the Government to accept this in good grace and realise that this is an appropriate way to go, so that decisions that are made in terms of appointments are made with the approval of the Assembly as a whole.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (8.25), in reply: I should, first of all, address the amendments which Mr Moore is about to propose, or has proposed.

**MR DEPUTY SPEAKER**: Mr Moore has not proposed anything at the moment. We are still on the in-principle debate, Mr Minister.

**MR BERRY**: Yes, he has. They are around. I have seen them. I think they have been lodged, have they not? I accept his warm congratulations on the matter.

**Mrs Carnell**: But not mine?

**MR BERRY**: I accept your warm congratulations on the matter too, Mrs Carnell, but I do not accept your criticisms about the other complaints units. I accept Ms Szuty's warm support for this motion, but I do not accept her criticism about the consultation process.

Dealing with each of them in turn, Mrs Carnell raised the issue of having duplication in terms of complaints routes, if I can call them that, in the health system. There will always be quality control measures within the health system, private and public - even in the individual practitioner's place of work - that deal with complaints as a quality control measure. ACT Health will always have a complaints mechanism within it, and it will deal with complainants with a view to satisfying them. It will work very hard to make sure that complaints do not end up with the commissioner who is the subject of this legislation. It would be a major criticism of the system if complaints had to be referred to the commissioner. We will always have that mechanism. Mrs Carnell can rest assured that, where there is any unnecessary area of what might be described as duplication, it will be attended to. We know her concerns. I think she has made some complaints publicly about the issue. It is not a big issue; we know about it. There will always be complaints mechanisms - there have to be - in both the public sector and the private sector.

In terms of Ms Szuty's complaints about consultation, it was a long consultation process because the Government was particularly concerned that we should take the community with us on this score. I think it was over a year ago that we had our first public meeting. There were a couple of those, as I recall. The officer who has worked diligently on this matter contacted people who were at those public meetings, with a view to ensuring that all of the concerns at least were taken into account on the way. That certainly was done. I know that Ms Szuty was not provided with an outline of the written submissions that were made to the Government. That was as it will always be, because they were submissions that were made to the Government and there were privacy issues involved. In my view, it would have been a breach of faith, in effect, to have made those documents public.

It was always open to individuals within this Assembly to refer the matter to some committee at any time along the way. I am not sure that it would have helped the process, but it might have. It was not something that concerned me along the way. If committees recognise that there is a genuine consultation process going on in good faith as a result of Government action on particular legislation, they ought not be concerned about it, because the views of people who participate in the process will be taken into account. If there are complaints about particular legislation, the complainants would contact individual members - those who had strong feelings about it anyway. That has happened in the past with legislation that people have resisted.

The purpose of this Bill is to provide for the oversight, review and improvement of public and private health services by establishing an accessible independent facility that will receive and resolve health service complaints. People have gone over many of these points, but I should go over them again because they are very important. It will facilitate contributions by users and providers to the review and improvement of health services; it will preserve and promote the health rights of users of public and private health services; and it will provide education

and information in relation to health rights and responsibilities, and encourage the resolution of complaints about health services. This proposed legislation is exemplary legislation for consumers, and I have no doubt that it will lead the way to betterment and enrichment of health consumer rights.

**Mrs Carnell**: Based upon a Victorian model.

**MR BERRY**: No, it is not altogether the Victorian model; I am sorry. Queensland as well as New South Wales were looked at. It was not just a lift, and it was also the subject of close consultation as well. The draft Health Complaints Bill was released as an exposure package for public comment, as was mentioned, from 26 August until 30 December 1993. Over 300 copies of the package were distributed to 100 different community groups and there has been significant response on issues that were addressed.

Mr Deputy Speaker, it is landmark legislation for the Territory. Australia-wide there have been other moves in this direction which have led the way, undoubtedly; but we are happy to be amongst the vanguard of the States and Territories who are providing this sort of service for the community. I think it was Mr Moore who spoke about empowerment. It makes the health service user more powerful in the scheme of things. I have not spoken about Mr Moore's proposed amendments yet, so I will do so now.

**Mr Moore**: They are very sensible.

**MR BERRY**: Mr Moore claims that they are very sensible, but they are to be opposed for very good reason.

**Mr De Domenico**: By whom?

**Mrs Carnell**: Not by us.

**MR BERRY**: You are in opposition; I would expect you to oppose the Government anyway, so it does not matter whether it makes sense or not. The issue is the quality of people that we attract to these positions. If there is a risk of somebody being torn down in some furious debate in this Assembly, then I fear that the quality of people who might present for these jobs could be affected. I think that is a likely outcome. There is no doubt in my mind that sooner or later somebody will be pulled down, and when that happens it will do irreparable damage to the process of securing quality people for these positions. I leave it at that. I have said it before - all care and no risk. You have no responsibility for appointing people but can tear them down at a whim. That is the proposal.

**Mr De Domenico**: No. It works both ways.

**MR BERRY**: It does not work both ways.

**Mr De Domenico**: You come and consult with this Assembly about the people that you want to appoint.

**MR BERRY**: No, no; the Bill does not say that. The Bill does not say that, so I will not be consulting with you.

**Mr De Domenico**: No, no. Ask Mr Wood how to do it.

**Mrs Carnell**: Ask Mr Wood how to do it.

**MR BERRY**: What input could you give? You could not give any input. After all, you are dealing with a very sensitive, caring Labor Government. What could Tony De Domenico offer the process? He could not offer anything to the process. Mr Deputy Speaker, that deals with that proposed amendment by Mrs Carnell.

**Mrs Carnell**: I have not spoken on it yet or even foreshadowed it.

**MR BERRY**: I will give you an idea where we are coming from. It was mentioned and it has been distributed. I have not had as long as I would like to have had to talk to Mrs Carnell about it, because I have been busy throughout the dinner break dealing with other very important matters. I have told Mr Moore. Mr Moore is aware that there is a privacy issue. The proposed amendment would have the effect of identifying individual providers, and that is very clear. This is, in my view, of great public concern and it is also, as I have said, an issue of privacy. I have been advised that the proposed amendment goes well beyond the legal jurisdiction of the health registration boards. There will be no denial of that because that is a matter of fact. The boards already have sufficient powers with which to discipline their own registrants. Breaching provisions and principles of the Privacy Act is something that no government or Assembly member should even contemplate.

Specifically, Mrs Carnell's amendment is in breach of privacy principle No. 11, which prevents the disclosure of personal information outside the agency. The issue concerns the protection of an individual's right to privacy. The Opposition's amendment makes a mockery of those principles and of the Privacy Act. There is no point in providing information to boards - I think this is a very important point too - if they have no legal jurisdiction to take action. For example, complaints alleging poor communication cannot legally be dealt with by boards but would be dealt with confidentially by the Commissioner for Health Complaints. The commissioner is required to refer a complaint to a relevant board if the complaint relates to a matter that falls within the functions conferred on a board. So why would you then pursue an extra course? For example, a complaint which alleges unprofessional or unethical conduct of a doctor must be referred by the commissioner to the Medical Board. Paragraph 9(c) of the Bill requires the commissioner to provide to boards non-identifying information about trends in health complaints about the boards' registrants. I, therefore, will strongly oppose that which has been foreshadowed by Mrs Carnell.

One other matter which also needs to be discussed in this context is that there is a whole range of health professionals who are not registered with boards, and the amendment proposed by Mrs Carnell is therefore meaningless.

**Mrs Carnell**: Which whole host of health professionals who are not registered with boards?

**MR BERRY**: Some that I have in front of me now are naturopaths and so on. There are a number of people who are not registered here in the ACT.

**Mr De Domenico**: So far we have naturopaths and so on.

**MR BERRY**: Is it an issue of privacy or is it not? Your amendment says "in relation to each relevant provider registered by the Board". That is what you say. So there is a privacy issue. I do regret not having time to talk at greater length with Mrs Carnell about the issue, but - - -

**Mrs Carnell**: I did table it at the last sitting.

**MR BERRY**: As I said to you tonight - - -

**Mr Humphries**: Have you tried to get in touch?

**MR BERRY**: We did advise you tonight, but I could not get down to talk to - - -

**Mrs Carnell**: No, you did not advise me at all.

**MR BERRY**: We advised your office. You do not answer your own phone these days, I trust. I trust that you do not answer your own phone, and I do not always ring you. In fact I never do.

**Mr Humphries**: She rang four times and there was nobody answering her call.

**Mr De Domenico**: The Trades and Labour Council wrote to him four times and he has not responded to them yet either.

**MR BERRY**: No, I think that was an accusation by somebody else, Tony. Get it right.

**Mr De Domenico**: They have it wrong, have they?

**MR BERRY**: No, you have. You always get it wrong. So, Mr Deputy Speaker, we have a situation where there is an amendment which will breach privacy. There is also a group of amendments which are to be proposed by Mr Moore and which will make it more difficult in the future, I fear, to recruit the right sort of people for these positions. But I thank members for their support for the legislation. I warmly thank you.

Question resolved in the affirmative.

Bill agreed to in principle.

**Detail Stage**

Clauses 1 to 7, by leave, taken together, and agreed to.

Clause 8

**MR MOORE** (8.40): I move:

> Page 4, line 18, add the following subclause:
>
> "(3) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.".

The significance of this has to do with the appointment of a commissioner for the Health Complaints Act. Subclause (1) states:

> The Executive may, by instrument, appoint a person to be Commissioner for Health Complaints.

Mr Deputy Speaker, we heard the Deputy Chief Minister, who is responsible for this Bill, arguing that this is going to make their job particularly difficult. I would say that if he follows the process that has been followed by Mr Wood he will not find it that difficult at all. Mr Wood followed an appropriate process when a similar amendment was added to his legislation establishing an appeals board in terms of planning. I think he would have to agree that a very smooth process was followed. Ironically, the opposite to what Mr Berry was saying appears to me to be true. Where there has been no process like this we have seen an example of a quite strong campaign and a quite interesting campaign about what to me appeared to be the inappropriate appointment of Mr Charles Wright. That did cause some debate in this Assembly, and I do not mean to raise the issue, other than to say that that situation could well have been avoided had this process been followed.

I accept that the process is a little more cumbersome because it involves the Assembly; but, rather than getting to a situation where the fears that Mr Berry has become true after the fact, it is far better that any concerns be raised by members of the Assembly at the time of the appointment. I think that this is a very sensible and appropriate way for the parliament to wear its responsibilities and to watch carefully what the Government is doing in making such appointments.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (8.43): Mr Deputy Speaker, traditionally, appointments to statutory office positions are not reviewable by the Assembly, but it seems to be becoming a more recent trend. At first glance it might be argued that Mr Moore's amendment would seem to ensure that the appointment of a commissioner is impartial and that an appropriate person is appointed; but, for the reasons I explained earlier, there is an issue of quality which is not taken into account. This is an issue of empowerment for Mr Moore and those in opposition, rather than any consideration about the issue of appointing quality people. The amendment is almost a slight on the due process of selection on principles of merit under the public service legislation currently in use.

The position of Commissioner for Health Complaints is to be a full-time statutory office and the Assembly is entitled to trust the processes of the public service legislation which the Assembly is both enacting and reviewing. An applicant who is currently a public servant may apply and would then be chosen by a process of fair competition, following public service procedures and requirements. The selection process follows well-established and proven methods of staff selection based on merit, whether or not the applicant comes from within or outside the public service. If the appointment of the commissioner is to be a disallowable instrument, the Assembly may, for whatever reason, ignore the processes which have been followed to select the best applicant for the position. The issue is about - - -

**Mr Connolly**: Politicising the public service.

**MR BERRY**: Indeed, politicising of the public service emerges very strongly. The best person selected for the position may well be discarded by the Assembly. Quite easily, in a fit of pique, the Assembly might well do it. I do not think this has been very well thought through, but it will make a nice headline out there. You can get a quick headline on this one, and that is all that matters, I suppose, when you are in opposition. As I have said, the best person could be discarded. The paperwork of the selection process is confidential - you could not get your little hands on it - and the process would not be open for the Assembly to review. Therefore, Mr Deputy Speaker, I oppose the amendment. It very clearly allows a very unfair process of review to be conducted in a very public way by the likes of those in the Opposition, and who would want that?

**MRS CARNELL** (Leader of the Opposition) (8.46): Very briefly, Mr Deputy Speaker, we will be supporting Mr Moore's amendment. The Commissioner for Health Complaints is a statutory office. It is supposed to be totally independent from the Minister and from ACT Health. I think that Mr Moore's amendment makes sure that that will be the case.

**MR MOORE** (8.46): It is interesting, Mr Deputy Speaker, to hear this political doublespeak from Mr Berry. He says that this will politicise the process in some way. When you are talking about politicising the process, we have a political party in government and it makes this appointment. The Executive may, by instrument, appoint a person to be Commissioner for Health Complaints. It is quite clear who is going to make the appointment under this legislation. My amendment says, "Yes, the Executive may appoint that person, but such an appointment will be reviewable by this Assembly". If this Assembly wishes to review the whole process of the appointment it can do that as well.

**Mr Berry**: No, it cannot. It is not available to you.

**MR MOORE**: Mr Berry interjects that it is not available to us. Of course it is available to us. If we wish to change the legislation and make it available to us, it will be available to us. That is the reality. In this case we are looking for a sensible way to proceed.

The other bit of political doublespeak we heard from Mr Berry was when he was talking about my being interested in empowerment. That certainly is a concern for Mr Berry. I can understand that because it does mean a very small transfer of power, in a final decision, from the Executive to the Assembly as a whole. Perhaps there is an issue there, not of empowerment from my perspective but of a loss of final say from Mr Berry's perspective. The reality is that where this system has been used up until now it has been an amicable process, and I think it will continue to be so. If Mr Berry wishes to continue with it in that way, I suggest that he speak to Mr Wood and find out how to go about it.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (8.48): I noted Mr Moore's twisty-speak but - - -

**Mr Moore**: Whichy-speak?

**MR BERRY**: Twisty. He is trying to avoid the real issue. This is very clearly a politicisation of the process and it will have the effect of worrying people who might apply for these sorts of positions here in the ACT. There is no

question about that. Mr Moore is just pulling another little stunt. It is another little stunt from the Independents. Independents are best described, often, as irresponsible, and this is one of those occasions where Independents would do better to take more responsible action.

Question put:

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

The Assembly voted -

| *AYES, 8* | *NOES, 7* |
|---|---|
| Mrs Carnell | Mr Berry |
| Mr Cornwell | Mr Connolly |
| Mr De Domenico | Ms Ellis |
| Mr Humphries | Ms Follett |
| Mr Kaine | Mrs Grassby |
| Mr Moore | Mr Lamont |
| Mr Stevenson | Mr Wood |
| Ms Szuty | |

Question so resolved in the affirmative.

**MR DEPUTY SPEAKER**: I point out that Mr Westende is paired with Madam Speaker this evening.

Clause, as amended, agreed to.

Clause 9

**MR MOORE** (8.52): I move:

Page 5, line 15, add the following paragraph:

"(k) to do whatever is reasonably necessary to ensure that persons who wish to make a complaint are able to do so.".

Mr Deputy Speaker, the intention of this amendment really is to clarify. I do not think it adds a great deal new to the Bill. In fact, it takes the intention of the Bill and puts it in very plain language. I think it is fair to say that in proposing this Bill Mr Berry would have intended the commissioner to do whatever is reasonably necessary to ensure that persons who wish to make a complaint are able to do so. It probably could be argued that this amendment is redundant because the whole Bill is about doing that very thing. However, it seemed to me that, because the functions of the commissioner are set out in such a logical, rational and easy to read way, it would be appropriate that lay people who are reading this Bill, who perhaps pick it up for the first time, see that that is one of the roles of the commissioner, and that the commissioner, himself or herself, is also conscious that that is part and parcel of the task at hand. For that reason I have proposed this amendment.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (8.53): It is an innocuous amendment. On my assessment of the information on the functions clause, it is probably unnecessary; but, if the form of words pleases Mr Moore, then that is fine. It does not seem to be necessary in the context of the functions of the unit as outlined in clause 9.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 10 to 21, by leave, taken together, and agreed to.

Clause 22

**MR MOORE** (8.55), by leave: I move:

Page 9 -

Paragraph (1)(e), line 9, omit "or".

Paragraph (1)(f), line 13, add at the end "or".

Subclause (1), line 13, add the following paragraph:

"(g) a provider has acted in disregard of the Code.".

In looking at the grounds for complaint, Mr Deputy Speaker, it seemed to me appropriate that, since the code is part and parcel of the whole Bill, it is important that we actually identify that complaints can be attached to that code. The code is defined in clause 4 as:

> "Code" means the Code of Health Rights and Responsibilities approved under section 53 ...

When you turn to clause 53 of the Bill you can see that the Minister will, by instrument, approve a code to be known as a "Code of Health Rights and Responsibilities". It seems to me that such a code will set out in specific terms the role and responsibilities of the commissioner and of this Act. That being the case, it is appropriate to include, as part of the complaints process, anything that is done that is not in accordance with that code. Because the Minister may, by instrument, allow a variation to the code, it also seems to me that that will mean that we have a very up-to-date way of continuing the empowerment of people that is intended by this piece of very good legislation. For that reason, Mr Deputy Speaker, I have proposed this amendment as part of the grounds for complaint.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (8.57): I understand what Mr Moore is saying, but my advice is that there will be no effect at all until there is a code and - - -

**Mr Moore**: Yes, that is true. There is no question about that.

**MR BERRY**: In any event, people can rely on other grounds to make a complaint. All of the grounds are fairly well covered. I note the words that Mr Moore has moved and there will be no resistance from the Government.

Amendments agreed to.

Clause, as amended, agreed to.

Clauses 23 to 62, by leave, taken together, and agreed to.

Clause 63

**MR MOORE** (8.58): I move:

> Page 26, line 7, add the following subclause:
>
> "(2) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.".

Mr Deputy Speaker, this amendment once again is to ensure that an appointment to the Health Rights Advisory Council shall be a disallowable instrument for the purposes of section 10 of the Subordinate Laws Act 1989. In spite of the fact that Mr Berry suggests that I want to have no responsibility at all, just the opposite applies, once again, to the sort of thing that Mr Berry is saying. Making these appointments disallowable instruments means that I, like every other member of the Assembly, will wear some responsibility for the appointment of any member, whether or not we resist it. At the time the appointment is made we have the power to say, "No, this is an inappropriate appointment". If we do not use that power, then part of the responsibility for that appointment rests with us as well. For that reason, I think that people who are appointed can feel that they are not going to be subjected to the sorts of problems that a person whose name I mentioned earlier was. That being the case, Mr Deputy Speaker, I think that this is, again, a positive amendment.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (9.00): Nothing that Mr Moore has added to the debate would move the Government from its position in relation to these proposed amendments. They are a nonsense. They just make it more difficult to attract the right sort of people. But I see that nothing will sway Mr Moore from his course.

Amendment agreed to.

Clause, as amended, agreed to.

Clauses 64 to 77, by leave, taken together, and agreed to.

Proposed new clause 77A

**MRS CARNELL** (Leader of the Opposition) (9.01): I move:

**Commissioner's periodic reports to Boards**

"77A. (1)The Commissioner shall, within 1 month after the end of the each statistical reporting period, furnish to each Board a report that states, in relation to each relevant provider registered by the Board -

(a) the number of complaints received during the period;

(b) a summary of each complaint sufficient to identify the nature of the complaint;

(c) the number of complaints disposed of during the period and the manner of their disposal; and

(d) the number of complaints outstanding at the end of the period.

"(2) The reference in paragraph (1)(c) to the manner of disposal of a complaint shall be read as a reference to action taken under -

(a) where a complaint has been referred to another person or body under paragraph 23(1)(a) - the appropriate subparagraph of that paragraph;

(b) where the Commissioner has decided to investigate a complaint under subparagraph 23(1)(b)(ii) - that subparagraph; or

(c) in any other case - the appropriate paragraph of subsection 28(1) or (3).

"(3) In this section -

'relevant provider' means a provider in relation to whom a complaint -

(a) is received or disposed of during the statistical reporting period in relation to which the report is furnished; or

(b) is outstanding at the end of that period;

'statistical report period' means -

(a) in relation to a Board with which the Commissioner agrees on a period of time for the purposes of this section - that period; or

(b) in relation to any other Board - the period of 3 months ending on 31 March, 30 June, 30 September or 31 December in each year.".

Mr Deputy Speaker, I now find that Mr Berry is circulating another amendment which I have not had time to read; but, anyway, I will continue. This provides for information to flow to the appropriate professional board on complaints handed to the Complaints Commissioner, that is, complaints that actually refer to practitioners covered by that particular board. This amendment will provide for a two-way flow of information between the commissioner and the boards. Currently the Bill provides for information to flow from the boards to the commissioner on complaints that refer to practitioners covered by the board, but not from the commissioner or the Complaints Unit back to the board.

The Bill as presently proposed may leave boards largely unaware of a pattern of complaints against a practitioner, of both a minor nature and a more serious nature. This knowledge, which is designed not to compromise privacy, should encourage preventative action by boards and alert them to minor transgressions, to persistent but minor complaints which may be indicative of more severe problems. The amendment does not impede in any way the operation of the Complaints Unit or the commissioner and will lead to the provision of essentially statistical information to the boards. Without this measure the commissioner would have the discretion to provide the information that I provide for in my amendment, but this amendment ensures that that information will be provided to the board as a matter of course. The information, in its most basic form, would involve advice on the number of complaints, a summary of the nature of those complaints, the number of complaints disposed of during the period and the number of outstanding complaints to the end of that period against any particular practitioner.

I think it is really important here to talk about what the boards actually do, what professional boards look at. Currently they look at all sorts of complaints against practitioners, and that is right from a practitioner being rude to a client or to a patient through to inappropriate professional techniques. That means surgeons who do not do their job properly, and real problems in terms of professional ethics. All professions have a code of conduct, right from how a patient is treated in the surgery through to the actual level of professional competency of the particular practitioner.

Currently the Bill provides that if a board receives a complaint against a particular practitioner it is required to notify the Complaints Unit, to notify the commissioner. That seems rather unusual. In Mr Berry's comments upon my amendment - I had not moved it at that time and I had not had an opportunity to speak on it - he suggested that there was a problem with privacy. If there is a problem with privacy there is a problem with the Bill already because currently it requires boards which are set up to look at complaints against practitioners to give the commissioner exactly the same information that I am requiring the commissioner to give to the boards. What is good for the goose is good for the gander, Mr Berry. If there is a problem with privacy one way, then there must be a problem the other way as well.

It is important to understand that for professional boards to do their job they must have an overall understanding of what is happening in the particular profession. Sometimes things can seem to be very minor problems. I will refer to some personal experiences. When I was on the Pharmacy Board, a long time ago now, we had a particular problem with a practitioner who was not giving adequate information about medication that that practitioner was dispensing.

**Mr Lamont**: Was that when you persecuted a particular pharmacist?

**MRS CARNELL**: This actually is reasonably important, Mr Lamont. We had a number of complaints about a particular pharmacist who was not giving any information; who was, in fact, sealing prescriptions in brown paper bags and giving them to employees to give out to clients. This obviously is unprofessional conduct; but it is not illegal, and even in a one-off instance probably is not all that much of a problem if the particular medication does not require a lot of information. But, when you put that together with a number of complaints against that particular practitioner and the way they conducted their professional activities, it became a real issue, and an issue that it was important for the board to follow up. The point I am making is that it is very important for boards to have an overview of what is actually happening in the profession. For a peer group review mechanism to work, all that information must be forthcoming. My amendment does not require the name of the complainant to be given to the board.

**Mr Berry**: It does.

**MRS CARNELL**: No, it does not; not the complainant, only the provider. Not the person who actually makes the complaint; only the person against whom the complaint is made. Currently all of those complaints go to the board, so they have all of that information. It is not new information, or information that they would not have in the current situation. In fact, currently they would also have the name of the person who was making the complaint. The issue is that, unless boards know what practitioners for whom they have an overall responsibility in professional conduct terms are actually doing, or what sorts of complaints are in the marketplace, they really cannot do their job. There is not a privacy issue, again, because the boards already have that information. It is not new information. I stress that again. I believe very strongly that for the Health Complaints Unit to do its job properly we must have a flow of this sort of information; otherwise no-one will be able to do their job appropriately. I urge support for this amendment.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (9.09): As I said earlier, Mr Deputy Speaker, this is clearly a breach of privacy. What will be required as a result of Mrs Carnell's amendment is that information in relation to complaints be referred to the board in relation to each relevant provider registered by the board. On the face of it, people might say, "Well, that is fine"; but what if the board has no power to deal with the matter? What on earth would you want to refer it to them for? It is a silly notion. It would be a breach of privilege if there was a complaint about a particular practitioner that was not a complaint that could be dealt with by the board. Why would you refer that complaint to the relevant board? It would be nonsense because it very clearly would be a breach of privacy. It is just nonsense. It is the height of arrogance to suggest that a board should have open access to this sort of information. It is information that would, without this amendment, be privileged, and therefore it should stay that way. It is unnecessary to refer these sorts of complaints to the board if they are, in fact, not matters which the board can deal with.

There is an issue that has been around for some time now where some of the professional boards want the police to provide them with information about some of their registrants who may have been charged with some offence or other. That suggests to me a breach of privacy too. Why should the police give it to the boards? The boards have not been able to convince police forces that they should provide that sort of information before people are charged. They do not want to breach the privacy of individuals, and they do not want to expose them to the old double jeopardy. That, of course, could occur as a result of what is being proposed.

The proposed amendment goes well beyond the legal jurisdiction of health registration boards. It requires that a complaint not made in relation to a matter which the board is concerned about still must become the property of the board. It is an issue of privacy. One of the very important features of this Bill is to ensure that, as far as is possible, secrecy and privilege are preserved for all people who participate in it.

What Mrs Carnell seems to be agitated about is that there is an area of complaints which will be dealt with by conciliation within this process, in the normal course of events provided for in this legislation, without the knowledge of the board, and it might well be appropriate for that to happen. Why would it be appropriate for everything, even those things that are not matters of concern for the board, to be referred to it? It is a nonsense. It is a breach of privacy, and it should not be allowed to occur. This amendment should be opposed, Mr Deputy Speaker. What I propose is an alternative which removes the words "in relation to each relevant provider registered by the Board".

**MR DEPUTY SPEAKER**: Are you formally moving that now, Mr Minister?

**MR BERRY**: Yes. It has been circulated. I move:

> Subclause (1), omit "in relation to each relevant provider registered by the Board".

This takes that unnecessary imposition out of this particular amendment and removes, to one degree or another, that breach of privacy.

**MR HUMPHRIES** (9.14): Mr Deputy Speaker, I do not see the logic of the case that has been put to the Assembly by Mr Berry tonight. Mrs Carnell is proposing an arrangement for the various health professional boards and the Health Complaints Unit, between them, to provide a cooperative and coordinated system to monitor the performance of health professionals. That is what it is designed to do. What we certainly do not want, Mr Deputy Speaker, is an arrangement to arise whereby there is conflict between these two arms of our policy for making sure that we have a higher standard of accountability on the part of professionals who work in our health system. That should be avoided at all costs. It would seem to me, with respect, that the proposal put forward by Mr Berry will have the effect of doing just that. It will provide that one arm of this process of dealing with the conduct of health professionals will not know what the other arm is doing.

Let me deal, first of all, with the question of the privacy matters raised by Mr Berry. Mr Berry has claimed that it is a breach of privacy provisions for one agency to provide information about complaints against a particular individual to another agency in order that they might then do something with those complaints. I draw members' attention to clause 57 of this Bill. It says that where a board "receives a complaint that appears to be made by a person referred to in section 21" - anybody, in other words - "and to disclose a ground referred to in section 22" - that is, a ground of complaint which operates under this Bill - the particular health professional board "shall notify the Commissioner; provide the Commissioner with a copy of the complaint and of all documents in its possession that relate to the complaint; and if the Commissioner so requests, refer the complaint to the Commissioner".

Mr Deputy Speaker, it is obvious that if you are providing information about the complaint, and a copy of the complaint, you are providing all the relevant information about that matter sufficient to identify both the complainant and the provider about whom the complaint is being made. Where is the privacy in that? Where is the privacy to the unit for a complaint which has been dealt with wholly by the board? Let us take the example of a person who makes a complaint to the Medical Board because the person wishes to have the board deal with that complaint. It is the sort of matter that the person feels the particular board concerned ought to deal with. That person might feel, conceivably, some angst at having that complaint dealt with by another unit of the government, the Health Complaints Unit.

**Mr Berry**: But this is a law that prescribes it.

**MR HUMPHRIES**: Exactly. But we accept, by passing this law, that those bodies - the Health Complaints Unit and the relevant board - both have an interest in this matter.

**Mr Berry**: By law. The boards may not have.

**MR HUMPHRIES**: By law. That is what Mrs Carnell's amendment is all about - providing that the law should cover both those contingencies. Why should not a medical board, for example, know about a complaint being made against a doctor? Is it not the role of the Medical Board of this Territory to know about complaints against doctors?

Mr Berry says, in answer to that point, "There are some matters not within the jurisdiction of the Medical Board, or the Pharmacy Board, or the Chiropractors Board", whatever it might be. Those matters are, in fact, very limited indeed. In fact, when pressed by Mrs Carnell to quote an example of a case where a matter would not be within the jurisdiction of the particular board, he could not find one. The fact is, Mr Deputy Speaker, that there are almost no examples. If a doctor, for example, is incompetent, then it is a matter equally for the attention of the Health Complaints Unit and of the Medical Board. If a pharmacist overcharges, that is equally a matter for the Pharmacy Board and the Health Complaints Unit. If a chiropractor mistreats one of his or her patients, it is equally a matter for both those bodies. It is obviously incumbent on a system which smoothly deals with these sorts of complaints that there be a capacity for those two parts of the system, those two hemispheres, to exchange information. That cannot happen if Mr Berry's amendment is successful in this house.

Mr Berry's amendment, with due respect, does not deal with the issue. He provides in his amendment that there should be merely a broad description to the relevant board of the fact that there has been a number of complaints dealt with by the unit. With great respect, that information, which is non-specific, is fairly useless to the particular board. In fact, I ask Mr Berry what exactly he hopes to achieve by providing information that says, "We have dealt with 55 complaints in this month". What does it mean? The board will say, "So what?". If the board knows that it has dealt with 12 complaints against doctors, and these are the sorts of complaints that the unit is dealing with in relation to doctors, then it will help that board do its job.

I cannot see any logical reason for saying that, for example, the Medical Board should not know the nature of complaints made about doctors who are under its jurisdiction. Remember that the Medical Board is the body that has the power to discipline doctors. The Health Complaints Unit has no power to take any disciplinary steps or measures. It has only the power, as Mrs Carnell put, to mediate in these matters of complaint between practitioners and their clients. Clearly, in a real sense, Mr Deputy Speaker, the boards are still the cockpit of controlling professional behaviour, and the boards therefore must know the nature of complaints against particular practitioners. It does not necessarily identify the complainants. There is no question of the privacy of the complainant being infringed here. But it does identify the person against whom the complaint is being made.

**Mr Berry**: It does so. It has to do it in relation to each relevant provider registered by the board.

**MR HUMPHRIES**: Yes, but that is the provider, not the complainant.

**Mr Berry**: That is right. Why should they be identified?

**Mr De Domenico**: Because there might be 49 complaints about the same person.

**MR HUMPHRIES**: Mr Deputy Speaker, I am afraid - - -

**Mr Berry**: If they do not come within the scope of the board the board is not entitled to know about them.

**MR DEPUTY SPEAKER**: Order!

**MR HUMPHRIES**: If Mr Berry does not understand why it is important for the Medical Board to know about complaints within the jurisdiction of the Medical Board against doctors, then I am afraid that he does not really understand the basic role that he plays as the person responsible for the conduct of those boards and the operation of those boards. "Heaven help us" is all I can say.

Clearly, this amendment from Mrs Carnell is very sensible. It deals with the capacity of our system to operate smoothly. I suspect that Mr Berry's philosophy in approaching this matter has been to some extent to keep the boards at arm's length in this process; to say that we are not going to involve these professional boards and we are going to leave the matter of controlling the conduct of practitioners in this town in the hands only of this unit. If this unit subsumed the powers of the board I would see there being a case for that. It does not do that. The boards still play an important role, and without the flow of information those boards cannot continue to play that role properly.

**MS SZUTY** (9.22): Mr Deputy Speaker, this has been an interesting debate. When I received the amendment to be moved by Mr Berry I had to look at it very carefully to ascertain exactly what was different about it. In the end we established that only the words "in relation to each relevant provider registered by the Board" were to be deleted. I must admit, on first looking at this amendment, that I thought, "Yes, perhaps Mrs Carnell does identify, to the disadvantage of particular providers, the number of complaints received, et cetera". However, I do take Mr Humphries's point that we have a whole part in the Health Complaints Bill, Part VII, which deals with the relationship between the commissioner and the boards. Mr Humphries articulated quite well the two-way process that is intended to exist between the referral of complaints to the commissioner and the referral of complaints the other way, from the commissioner to the relevant boards. I think Mrs Carnell's amendment is a very positive contribution to this Bill and I support it.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (9.23): I really need to deal with the web of deception that Mr Humphries has attempted to weave. He talked about clause 57 of the Bill, which relates to the referral of complaints to the commissioner. That clause says:

(1) A Board that receives a complaint that appears to have been made by a person referred to in section 21 and to disclose a ground referred to in section 22 shall -

(a) notify the Commissioner;

(b) provide the Commissioner with a copy of the complaint and of all documents in its possession that relate to the complaint; and

(c) if the Commissioner so requests, refer the complaint to the Commissioner.

The difference here is that the board has to refer to the provisions of this Act and to comply with it. Clause 21 refers to who may complain and it says:

> A complaint to the Commissioner about a health service sought, used or received by, or administered to, a user may be made by the user or, where it is difficult or impossible for the user to make a complaint, or to make a complaint that complies with subsection 26(1) ...

It goes on to list all of the people who can make a complaint. It also talks about the grounds of complaint. Those are very specific provisions under which referrals by the commissioner must be made. If the reverse were to occur in relation to boards, then the commissioner would look at the board's legislation and identify where there had been an infringement or where there had been a matter which the relevant professional registration board might deal with. The commissioner has to identify that and then forward it on to the board. What Mrs Carnell's amendment sets out to do is to say that, whether it has any relevance at all or not, it must be referred. Therefore people who have no business being before the particular professional registration board are being referred there.

There is no point in going through this referral process when the board has no power under its relevant piece of law. This is about the professionals in those registration boards being aware of what is going on out there amongst the people who are registered, but not to the extent that they would be able to deal with it. It may well not be something to which the board could refer. If you look at this legislation, there is an obligation on the board to take into account the actual law. Where the commissioner refers a complaint to a board it would be a matter which the relevant registration board could deal with, and that is fair enough. Exactly the reverse occurs as far as the board's relationship with the commissioner is concerned. The board must consider the powers under the Health Complaints Act, particularly who might complain and the grounds for complaint, before making that referral. Mr Humphries is well aware of that because clause 57 points that out, and the reverse occurs in relation to the commissioner.

Mrs Carnell is seeking to impose a requirement that where there is no reason for the matter to go before a board it still must go there. What I have proposed in the amendment that I have put before this chamber is to remove that automatic requirement for every complaint against a provider to be referred to the board, and the big picture, of course, is presented to the board. If the board see a picture developing out there about which they have some professional concern, they ought to approach me with a view to changing the Act to deal with it - that is, if there is a particular matter they think they ought to be dealing with. But if it is not provided for in the legislation there ought not be a requirement under this legislation to automatically refer matters about which the relevant registration board has no concern.

**Mr Humphries**: They are not being referred.

**MR BERRY**: They are being referred.

**MR MOORE** (9.28): Mr Deputy Speaker, when Mrs Carnell put up her amendment to this legislation I thought it was a very sensible improvement on the Bill. Mr Berry then raised the question of privacy and caused me to question that particular part of her amendment. To be fair to the Minister, he has accepted, clearly, the general content of the clause dealing with this specific issue of privacy. However, he has been entirely unconvincing in saying that there really is a privacy issue involved here that warrants the amendment that he is proposing. I think that each of the arguments he put up has been well argued against by Mr Humphries and that this amendment can operate appropriately. I feel satisfied that there is not a grave risk to privacy.

**Mr Berry**: I think you have missed the point.

**MR MOORE**: Well, have another go.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (9.29): You have missed the point. Under the provisions for referral from the commissioner to the board and the board back to the commissioner, each must take into account the relevant legislation - that is, this Bill or the particular practitioners registration Act, whatever the case may be. This one here provides for an automatic referral of each river of complaints in relation to each relevant provider registered by the board. That is an automatic referral rather than an overriding requirement for the commissioner to take into account whether or not the board has any powers to deal with the matter. If the board has no powers to deal with the matter it ought not be referred to them.

Debate interrupted.

## ADJOURNMENT

**MR DEPUTY SPEAKER**: Order! It being 9.30 pm, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

## HEALTH COMPLAINTS BILL 1993

[COGNATE BILL:

OMBUDSMAN (AMENDMENT) BILL (NO. 2) 1993]

### Detail Stage

Proposed new clause 77A

Debate resumed.

**MR BERRY**: I require that you consider those very important points. It is an important issue for anybody to consider in the context of law. Persons on the relevant professional registration board have no right to interfere automatically in the affairs of people the board might register, particularly if the board has no powers in relation to that particular referral. It is of no interest to them - except for them to be stickybeaks, and being a stickybeak is not a good enough reason to have privacy breached.

Question put:

That the amendment (**Mr Berry's**) to the proposed new clause be agreed to.

The Assembly voted -

| *AYES, 7* | *NOES, 8* |
|---|---|
| Mr Berry | Mrs Carnell |
| Mr Connolly | Mr Cornwell |
| Ms Ellis | Mr De Domenico |
| Ms Follett | Mr Humphries |
| Mrs Grassby | Mr Kaine |
| Mr Lamont | Mr Moore |
| Mr Wood | Mr Stevenson |
| | Ms Szuty |

Question so resolved in the negative.

Question put:

That the proposed new clause (**Mrs Carnell's** amendment) be inserted in the Bill.

The Assembly voted -

| *AYES, 8* | *NOES, 7* |
|---|---|
| Mrs Carnell | Mr Berry |
| Mr Cornwell | Mr Connolly |
| Mr De Domenico | Ms Ellis |
| Mr Humphries | Ms Follett |
| Mr Kaine | Mrs Grassby |
| Mr Moore | Mr Lamont |
| Mr Stevenson | Mr Wood |
| Ms Szuty | |

Question so resolved in the affirmative.

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

Bill, as amended, agreed to.

## OMBUDSMAN (AMENDMENT) BILL (NO. 2) 1993

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

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## TOBACCO (AMENDMENT) BILL 1993

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

That this Bill be agreed to in principle.

**MRS CARNELL** (Leader of the Opposition) (9.37): Mr Deputy Speaker, the Liberal Party will be supporting this legislation. This Bill will increase the effective enforcement of legislation against the illegal advertising of tobacco products which has arisen because of a loophole in the legislation. On the surface it is not an unreasonable thing to remedy. However, any legislation should be put to at least some public consultation, and at the very least the relevant industry organisations should have the opportunity to examine it. In the case of this Bill this simply has not happened. The Canberra Business Council, the Chamber of Commerce, the Restaurants Association and, for that matter, everybody else we could think of asking were not aware of the legislation before we drew it to their attention. The Labor Party seems to be very fond of consulting only when it suits them. One observation made to a member of my staff was that the Liberal Party brings more legislation to the attention of these groups than does the Government.

**Mr Lamont**: They say the same thing to us.

**MRS CARNELL**: Therefore they spread it around. It is unfortunate, Mr Deputy Speaker, that legislation of this type has not been brought to the attention of the people who will need to enforce it. As we already know, the Government does not have enough staff or inspectors to make sure that tobacco products are not being sold to under-age people and that appropriate behaviour is happening in shops that sell tobacco products. Unless the people actually out there in the marketplace know of this sort of legislation it is very hard to understand how any sort of enforcement will be able to happen.

A case in question here - this shows just how important it is to appropriately consult - is the comments made by Canberra ASH Inc. Canberra ASH have asked why this Bill was not used to clarify the illegality of cigarette brand name promotions on the outside of shops but within a covered area such as a mall. If the Government had appropriately consulted, maybe this Bill could have addressed that situation. As I understand it, this Bill does not address a situation where an illegal sign is under an awning of a shop but inside a mall.

It would seem quite simple to extend the Bill to cover that sort of concern. Again I say that if the Government had bothered to ask Canberra ASH what their concerns were or what they thought of this particular legislation they could have improved the Bill by including these sorts of things. I think this shows you how important it is to consult with relevant groups that spend all day or a large amount of their time concerned with these particular areas. We support the Bill, but the shortcomings that we see in it could have been overcome if the Government had bothered to ask anybody.

**MR MOORE** (9.40): There is some public debate over this issue following agreement between States and then the reaction of Mr Kennett.

**Mr Berry**: Not this one.

**MR MOORE**: The response of Mr Kennett in a similar area to this. Mr Berry corrects me that it was not this specific one. It was a similar issue to do with tobacco. I think I am correct in saying that this Bill is a result of discussions between States, and it is an important issue in terms of advertising. Interestingly enough, the first time the removal of tobacco advertising was suggested in parliamentary circles, that I am aware of, was in a report by a Senate standing committee that was under the chairmanship of the then Senator Peter Baume. They reported that this drug, tobacco, was the one that was doing the most damage in Australia. Their recommendation was for the removal of all advertising of tobacco. Having the opportunity to support legislation that provides for that is, I feel, an honour. I thank Mr Berry for giving us the opportunity to do so and for restricting even further the advertising and the association between tobacco smoking and sporting and social glamour and success.

I think it is important for Mr Berry, in removing that allowance of the 30-day period, to explain how he intends to handle the Prime Minister's XI match when it comes to Canberra at about this time next year. What does he intend to do and how does he intend to handle the exemption that has been granted? It has been granted in the last couple of years in order to allow that cricket match to go ahead, in spite of the fact that it is held with the support of the tobacco advertisers. We have seen the good intention, but if we were now to warn that there is not going to be an exemption it might provide a very strong statement from this community about tobacco advertising in association with sports. I would be very interested to see what Mr Berry's attitude is, now that we have time to stand back and think about it rather than deal with this issue in the short term, as would have been the case had we been dealing with the possible disallowance of that exemption. A response to that situation would be very helpful in the light of this piece of legislation, which I am supporting.

**MR BERRY** (Minister for Health, Minister for Industrial Relations and Minister for Sport) (9.44), in reply: I thank members for their support for this Bill. Mr Moore raised an unrelated issue about the Prime Minister's XI cricket match which is held here each year. I expect that it will be held here again next year. My position in relation to those exemptions has been on the basis of the national position which has been taken by the Federal Government in relation to tobacco advertising. I have taken a similar position with the New South Wales Rugby League. The New South Wales Rugby League tobacco sponsorship will expire, from my recollection, at some time in 1995. In relation to the Australian Cricket Board sponsorship, I think it will be ruled out by the Federal legislation at

some time in 1996. I think it is early 1996. Both of those sponsorships occur outside the Territory - they would not be able to occur within the Territory - and the cricket game has a long history here. Of course, the Raiders' relationship with the ACT is a very important one as well.

In relation to the New South Wales Rugby League, not many people would forget the brawl about what advertising would or would not be there. At the end of the day they agreed that I could have some anti-smoking advertising on the ground, provided that they could show their sponsors' products on television days. Roughly the same applies in relation to the Australian Cricket Board's presentation of the Prime Minister's XI game. On the day of that game, whilst there is tobacco advertising, there is anti-smoking advertising on the ground as well. Without bringing the game undone, which may well have been the risk had we refused that particular advertising, we have proceeded down a path which has resulted in an anti-smoking message and some sponsorship from the Health Promotion Fund. The same thing is applied at the Bruce Stadium.

In relation to Mrs Carnell's concerns about what Canberra ASH have said and what they have not said, and what other people have said and what they have not said, there will be a review of this legislation. I think it will happen some time next year. It will have to be, will it not, because we are running out of time this year? This matter was seen to be particularly pressing because we had a situation where, if somebody came into town with, say, a furniture van with tobacco advertising all over it and they wished to park it legally in places around the city, there was not much I could do to prevent them from doing so for 30 days. There was not much I could do for 30 days. It was thought at this stage that we could quite fairly bring it down to two days. In cases where there might be a requirement for some disassembly of some advertising that was inadvertently put together, it could have been one day, but two days was felt to be about right. That might prove to be different in due course.

I go back to the review of the legislation. I think it was the Alliance Government that originally put forward this legislation. People will recall that there was a bit of argy-bargy between Mr Humphries and me as to who should or who should not put forward the legislation, but it went forward under Mr Humphries and I was very proud to support it. We had behind us a couple of hundred years of tobacco consumption in this country, and you really have to take the community with you. So the review process is a quite natural outcome after some years of experience with the Bill. People have been able to get a feel for its shortcomings. You can rest assured, Mrs Carnell, that the appropriate consultation process will occur with a view to ensuring that - - -

**Mrs Carnell**: Unlike this time.

**MR BERRY**: I do not really care about people who advertise tobacco products. They are not people I list as the great friends of ACT Health.

**Mrs Carnell**: You mean the Chamber of Commerce.

**MR BERRY**: If they advertise tobacco products I do not have a great deal of sympathy for them.

**Mrs Carnell**: Ask them what they think about the legislation.

**MR BERRY**: They are either for it or against it, and if they said that they were against it I would say, "Well, who cares?". This is legislation which is aimed at reducing the consumption of tobacco products, and anybody who would oppose it therefore argues for the consumption of tobacco products. Mr Deputy Speaker, the review will occur in due course and all will be consulted.

May I say, Mr Deputy Speaker, that the usual hawk-eye of Mr Moore has missed something. There is an opportunity here to undo an officer.

**Mr Humphries**: He has run away in shame.

**Mr Connolly**: He might be out there drafting it now.

**MR BERRY**: Hey, come back. The Bill says, "The Minister may, by instrument, appoint persons as authorised officers for the purposes of this section". Empowerment itself. Here is an opportunity that has passed by.

**Mrs Carnell**: It is not the same, Wayne.

**MR BERRY**: It is about empowerment, and here is a lost opportunity. Somebody might get this position who might well be under - - -

**Mrs Carnell**: Do you want us to change our minds?

**MR BERRY**: It would not surprise me what you would do on that score. Mr Deputy Speaker, I thank members for their warm support for this particular piece of legislation. I even thank them for their cool support.

**MR DEPUTY SPEAKER**: No brand names in the Assembly, thank you.

**MR BERRY**: I even accept the mild, though misdirected, criticism, Mr Deputy Speaker, and assure members that the review will be done in consultation. They will be fully aware of it and they will be able to make a contribution if they so wish.

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**) proposed:

That the Assembly do now adjourn.

### Member's Clothing

**MR KAINE** (9.52): Members will know that I very rarely avail myself of the opportunity to speak in the adjournment debate. I do so only when something cataclysmic occurs or when there is something of grave social importance that I wish to comment upon. From time to time when working in this Assembly I am struck by some of the extraordinary characteristics of some of the people that I work with.

**Mr Lamont**: This is not Thursday. You are supposed to do this on Thursday.

**MR KAINE**: You just wait patiently, Mr Lamont. For example, I am often struck by the superior knowledge that Mr Stevenson demonstrates about the way the Westminster system works. I sometimes sit confounded as Mr Stevenson speaks on the subject. There are times when I am completely overwhelmed by the erudition shown by Mrs Grassby, and there are times when I become totally speechless at the oratorical powers displayed by Mr Berry. The things that he can do with a word are absolutely unbelievable.

Having said all that, Mr Deputy Speaker, I was thumbing through one of our better known newspapers yesterday and I came across an article that demonstrated to me that we have amongst us one who has yet another extraordinary characteristic. Alongside the article was a photograph. The article talked about somebody being dressed in the flashy manner of the Labor Right, and I thought, "Tony De Domenico for sure". Then I read on. I was wrong the first time; so I kept reading. I thought, "Mr Berry, the latter-day Paul Keating". I kept reading, and to my astonishment I discovered that that was wrong too. Then I began to wonder who this person was, and eventually I had a look at the photograph. Here is this person with the button-down collar, the wide striped tie, the broad-shouldered jacket, the three-button sleeves and cuffs on the trousers. I am a bit old fashioned. I still do not have cuffs on my trousers. There, to my astonishment, was a member of this Assembly that I would never have suspected - Mr David Lamont.

I thought it would be unreasonable, Mr Deputy Speaker, for this event to go unrecorded, except in the fading columns of the *Canberra Weekly*. You put these things in the files and they fade over the years. So, Mr Deputy Speaker, with the approval of the Assembly, I would like to incorporate in *Hansard* this extraordinary personality amongst us who is truly a paragon of sartorial elegance.

**MR DEPUTY SPEAKER**: I am not sure that we can do that, for practical reasons. Perhaps you might like to table it, Mr Kaine.

**MR KAINE**: I will table it, but I would like to incorporate it in *Hansard* if that is technically possible.

**MR DEPUTY SPEAKER**: We will examine the matter.

Leave granted.

*Document incorporated at Appendix 1.*

### *Field Guide to the Birds of the ACT*

**MR WOOD** (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (9.55): Mr Deputy Speaker, let me add to the seriousness of the night, and I am as serious as Mr Kaine was. With Christmas approaching and members anxiously scouting around for appropriate gifts, I suggest to you that you consider this little publication *Field Guide to the Birds of the ACT*, which was sponsored by the National Parks Association of the ACT and was launched today. It was made possible by a significant donation by Mr Alastair Morrison, who has had a lifetime interest in birds. It has an excellent text by McComas Taylor and drawings by Nicolas Day. I can assure you that, at about $15 or perhaps a little more, you get an excellent present. They are generally available and I would urge members to think about that.

### Member's Clothing

**MR LAMONT** (9.57): First of all, I wish to comment momentarily on the taste exhibited by at least one member of the Opposition in relation to the issue that he raised this evening. I am quite pleased that he decided - to use the vernacular - to take the mickey out of me for the purpose for which that photograph was taken. I feel quite proud that we have two local manufacturers that I have been able to support, as I do most other manufacturers in the ACT. I would hope that members opposite would also decide to buy locally. I understand that both Ms Szuty and Mr Moore do so regularly.

I could give a run-down of Mr Humphries's blue and white shirt and talk about the sartorial elegance of the legal profession, which he attempts to emulate without necessarily being one of them, and where he buys his accoutrements. I could talk about the Brylcreem that Il Gatto Pardo uses, but that would be almost a contempt of this house. I do wish to say, Mr Deputy Speaker, that I am quite pleased to have been able to promote the skill of the people employed by Lampros Shoes and Christopher Palmer. I thank Mr Kaine for raising this opportunity to promote local products. It is a pity that his colleagues will not do the same.

Question resolved in the affirmative.

**Assembly adjourned at 9.59 pm**

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## ANSWERS TO QUESTIONS

## MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

## LEGISLATIVE ASSEMBLY QUESTION

## QUESTION NUMBER 1055

### Gungahlin Drive-Gundaroo Drive Intersection - Construction Costs

Mr Westende - asked the Minister for the Environment, Land and Planning
What is the exact final cost of the construction of the intersection up until the completion of the Gundaroo Road/Gungahlin Drive roundabout in Gungahlin.

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

The construction of the intersection of Gungahlin Drive and Gundaroo Drive was carried out in three stages in three consecutive financial years. The staging of the works reflects the different access requirements with time and the underlying requirement to maintain traffic flow along old Gundaroo Road.

Earthworks and pavement construction for Gundaroo Drive past the future intersection was carried out as part of the William Slim Drive Extension contract (1990/91 financial year funding). This was carried out with the future intersection in mind and saved on the need for an expensive temporary connection to old Gundaroo Road which would have been removed at the time of construction of the intersection.

The intersection with Gungahlin Drive .was constructed as part of the Gungahlin Drive project (1991/92 financial year.funding).

The contract for the next stage of Gundaroo Drive from Gungahlin Drive to Mirrabei Drive (1992/93 financial year funding) included conversion of the intersection to roundabout control.

The cost of construction of the intersection is as

follows:
Earthworks and pavement for Gundaroo Drive
component within the future intersection only $45,000
Initial intersection construction $174,000

Conversion of intersection to roundabout control $240,000

TOTAL $459,000

The staging of the works has had the effect of maintaining satisfactory interim traffic arrangements, development costs associated with the intersection have been minimised and the progressive implementation of the work has minimised the need for abortive work.

4592

**MINISTER FOR HEALTH**
**LEGISLATIVE ASSEMBLY QUESTION**
**QUESTION N0.1059**

**Community Nursing Service - Pager Units**

Mr Cornwell - asked the Minister of Health:

(1) Are community nurses to be restricted to two pager machines between 15 nurses as a cost saving measure and, if so, why is this deemed practicable?

(2) How much money per annum is it estimated will be saved by this measure?

(3) What is the cost of a pager as used by community nurses?

Mr Berry - the answer to Mr Cornwells question is:

(1) The Community Nursing Service is in the process of upgrading the paging system from tone pagers to numeric pagers which will increase efficiency and reduce telephone calls. The Service is not an emergency service and staff plan workloads in advance. Following a review of usage rates and discussion with Team Leaders, a decision was made to reduce the number of units from 131 to 45. All key personnel and after hours staff carry a unit.

(2) To maintain the old system the annual cost would be $11004 plus the cost of additional telephone calls. In comparison the new system will cost $5 400 per annum. By moving to the new system additional transmission saving will be approximately $4 032 resulting in a saving of $9 636 per annum.

(3) Paging units are contracted from Hutchison Telecoms at a cost of $7 per month for tone pagers and $10 for numeric pagers.

4593

**MINISTER FOR HOUSING AND COMMUNITY SERVICES**
**LEGISLATIVE ASSEMBLY QUESTION**
**QUESTION NO. 1064**

**Housing Trust Properties - Duffy**

MR. CORNWELL - Asked the Minister for Housing and Community Services - Is there currently a vacant ACT Housing Trust house at the Forestry Settlement at Cotter Road, Duffy; if so, (a) how long has the house been vacant and (b) will the house be relet and, if so, when.

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

Yes, a house at 9 RMB, 113 Cotter Road, Duffy is vacant:

(a) Since 25 November 1993 when the Housing Trust repossessed the property after confirming that the tenant had died.

(b) Yes, as soon as possible.

4594

**MINISTER FOR HOUSING AND COMMUNITY SERVICES**
**LEGISLATIVE ASSEMBLY QUESTION**
**QUESTION NO 1080**

## Housing Trust - Debt Collection Contract

MR CORNWELL: Asked the Minister for Housing and Community Services -In relation to the tender for the recovery of ACT Housing Trust debts -

(1) Is the successful tenderer an ACT company.

(2) Is the successful tenderer a member of the Institute of Mercantile Agents.

(3) If the reply to (1) and (2) is negative, why was this tenderer chosen in apparent breach of the tender document guidelines.

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

(1) The successful tenderer is based in the ACT and throughout Australia.

(2) Yes.

(3) Not applicable, see (1) and (2).

4595