



DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

23 February 1994

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

PUBLIC INTEREST DISCLOSURE BILL 1994

MRS CARNELL (Leader of the Opposition) (10.31): I present the Public Interest Disclosure Bill 1994.

Title read by Clerk.

MRS CARNELL: I move:

That this Bill be agreed to in principle.

This Bill represents the first stage of our commitment to ensure open and accountable government in the Australian Capital Territory. It is designed to complement the establishment of the separate ACT Government Service due later this year. With the creation of a new public sector organisation comes the realisation that we need to develop and entrench a culture of accountability and responsibility amongst its employees.

The definition of a public servant's role has always been, as the title suggests, to serve the community interest. Yet the reality can sometimes be different. All too often, we read or hear about evidence of corruption or improper conduct by individuals occupying positions of responsibility within the public sector. Frequently, action is taken after the event, when it is already too late. We need to have a system which enables the community to be alerted to possible dangers before, rather than after, the fact. Whistleblowers or public interest disclosure laws will go some way towards achieving this.

You need only look at Western Australia during the so-called WA Inc. era to see what happened when the checks and balances were removed from the administration of government. It is not the political ramifications that matter so much, because those in political office are accountable to the electorate. What is important is that the public not bear the brunt of mismanagement or negligent practices. The activities of WA Inc. placed a huge debt around the neck of every Western Australian. In Victoria, we witnessed the Tricontinental Bank collapse; in South Australia, it was the State Bank; in Queensland, the Fitzgerald commission was needed to clear the air. Many of these incidents took years to surface. This is because public servants who are concerned about the ethics of a decision, or are witnesses to waste or abuses of process, have little or no protection if they decide to come forward. In many cases, emotional abuse, demotion and even dismissal have occurred to good people who were not prepared to turn their backs on things they knew were wrong.

However, this has not stopped a small but courageous band of public officials who have braved threats of reprisals, dismissal and isolation to come forward and figuratively "blow the whistle" on corrupt or improper conduct in the public sector. We should not tolerate a system which allows people to be blackmailed or open to reprisal. The legislation I have introduced today creates a framework to protect a whistleblower from such unlawful reprisals. More importantly, it seeks to entrench in the public sector a culture that says to every employee, "If there is something happening in your workplace that you know is not right, then you can do something about it and not be afraid of the consequences".

The Public Interest Disclosure Bill tabled today will establish procedures to encourage employees to disclose any corrupt, illegal or improper conduct or to identify wastage of public resources. It will protect people who come forward from any reprisals they may face because of their disclosures. It will encourage any disclosures made about corrupt or improper conduct and make sure that they are properly investigated and acted upon. It will protect persons who resist any effort by an employer to make them commit a crime or conceal an offence or wastage.

Under the legislation, each Territory department or statutory authority is required to establish procedures to deal with reports from public servants about corrupt or improper conduct or wastage of public resources in their workplace. Each agency will be required to present an annual report of its activities to be tabled here in the Legislative Assembly. This report will include, amongst other things, a description of the procedures the agency has instituted to facilitate public interest disclosures. It will also include the number and type of public interest disclosures received and any investigation or action taken in respect of each report.

How does a public servant report an incident he or she is concerned about? A whistleblower can choose whether to report the incident to the proper authority within his or her own department or agency. If the person involved believes that that disclosure may not be investigated appropriately or that there may be repercussions, he or she may then report the matter to the Ombudsman. Under the Bill, the Ombudsman Act 1989 is amended to designate the Ombudsman as a proper authority capable of receiving a public interest disclosure from any person. The Ombudsman will also have the power to specify and, if required, modify the procedures used within departments or authorities to receive such disclosures.

A proper authority may decline to act on a public interest disclosure if it considers that the disclosure is frivolous or vexatious, trivial or lacking in substance or that it has been adequately addressed by another authority. If, after investigation, a proper authority is of the opinion that a public interest disclosure has revealed that a person has engaged, is engaging or proposes to engage in corrupt conduct, public wastage, unlawful reprisal or conduct that amounts to a substantial and specific danger to the health and safety of the public, then the authority shall take such action as is necessary and reasonable to prevent the conduct or reprisal from continuing or from occurring in the future and to discipline any person responsible. The nature of disciplinary action

obviously depends on the type and severity of the improper conduct or wastage detected. The authority investigating the report will be required to update the whistleblower at least every 90 days and upon completion of the inquiries. This is to ensure that complaints do not disappear in the bureaucratic maze and are dealt with properly. It also ensures that snow jobs do not occur.

A common thread of cases involving whistleblowers has been the potential of reprisal against the complainant. This Bill sets a penalty of \$10,000 or 12 months' imprisonment, or both, for any person found to have engaged in, or attempted to engage in, reprisals. The legislation also permits a person who has suffered detriment to seek damages by way of a civil claim against the person who has engaged in the reprisal. It also places an onus upon authorities to do everything in their power to protect from unlawful reprisal a person who makes a public interest disclosure. This could include, for example, the relocation of a person to another area in the public service if this is felt to be warranted, but only - and I stress "only" - with the consent of the individual concerned.

One of the primary concerns of all whistleblowers is that their identity and the information contained in their disclosures should not be made public or available to any person not directly involved in the investigation. This Bill creates a \$5,000 penalty for any public official who, without reasonable excuse, provides confidential information gained through the official's involvement in the administration of the Act to any other person. A person who knowingly makes a false or misleading statement to a proper authority with the intention that it be acted upon as a public interest disclosure is also liable to a \$10,000 fine or 12 months' imprisonment, or both. This provision is to protect the system as well as the public servants involved. I am sure that nobody wants a situation which allows malicious people within the public service to upset the whole system of government. This provision has been included to protect innocent persons from malicious and false allegations.

The Gibbs committee report of December 1991 on Commonwealth criminal law recommended that whistleblowers should be protected by legislation. The report's recommendations form the basis for the Bill I have tabled in the Assembly today. Similar legislation either has been introduced or is being drafted in Queensland, Western Australia, South Australia and New South Wales, as well as for the Commonwealth.

If we want accountability and transparency in public decision making and administration, mere codes of conduct and mission statements simply do not go far enough. We need a mechanism or a set of procedures to permit an employee to speak out in the public interest - which is, after all, in all our interests. Last week, I was pleased to see the Chief Minister finally come out in support of whistleblowers legislation. Unfortunately, last year, when I first announced my intention to draft this Bill, the Attorney-General, Mr Connolly, questioned the need for it. I can only presume now, Madam Speaker, that the Attorney-General too has seen the light. This legislation will encourage public institutions in the ACT to improve their processes and performance so that the need for this very legislation for public interest disclosures will be minimised.

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Madam Speaker, I believe that this Bill potentially will change the culture within the public service and will give people an ownership of their workplace. The Public Interest Disclosure Bill is an important part of a change in the basic culture of the public sector in Australia and in Canberra. Of course, that is the reason that all governments are now looking at such legislation. The aim of the Bill is to ensure that our system of government works, and works well, and the introduction of such legislation prior to the creation of a separate ACT Government Service would, I believe, be entirely appropriate. I commend the Bill to the Assembly and urge all members to support this landmark approach to public sector management in the ACT.

Debate (on motion by Ms Follett) adjourned.

STATUTORY APPOINTMENTS BILL 1994

MR MOORE (10.44): I present the Statutory Appointments Bill 1994.

Title read by Clerk.

MR MOORE: I move:

That this Bill be agreed to in principle.

Madam Speaker, it is rather timely that this Bill should follow the Bill just tabled by Mrs Carnell. It is interesting that in her speech she referred to the backdown by the Attorney-General in terms of his attitude to whistleblowers less than a year ago and his attitude of approval now. I presume that we will see exactly the same thing with the Statutory Appointments Bill, about which Mr Connolly has been trying to whip up some media hysteria about a Star Chamber. No doubt we will see a change in his attitude in due time.

Mr Connolly: They all know what you will use this for. You will use it to pillory people under privilege.

MR MOORE: Madam Speaker, I shall come back to that, to give Mr Connolly appropriate opportunity to interject. The Federal House of Representatives, Madam Speaker, is often referred to now as the House of Mates. It seems to me that one of the things that we must ensure in our chamber is that we do not get that sort of name. That is something we need to avoid. Mr Connolly, on ABC radio earlier in the week, pointed out that there has been no controversy over appointments that have been made in the last three years in the ACT. At that time I drew attention - - -

Mr Connolly: No; that is not what I said.

MR MOORE: Mr Connolly indicates that that is not what he said.

Mr Connolly: I said that you have never got a Minister in a scandal in this Government - unique in Australia.

MR MOORE: In fact, I have now given him the opportunity to say that there has never been a Minister in this Government in a scandal, and his corrected statement is no doubt correct at this stage. But of course there has been controversy over appointments in the last three years. I refer specifically to the Pharmacy Board and to the Tourism Commission. Madam Speaker, I do not think there is any point in going back over those, other than to draw attention to the fact that there has been controversy.

It is important, Madam Speaker, not only that we ensure that appointments do not go to mates but also that the system is designed to be clean and that there is a system in place to avoid that situation. The Leader of the Opposition, in her tabling speech, referred to the Fitzgerald inquiry, to WA Inc. and so forth. I could continue with those, but I think it is fair to say that there are those who argue that there is in fact an ACT Inc. as well. That is something that we need to avoid, and it is something that we need to ensure is seen to be avoided. There must be an appropriate process in place to ensure that no such thing develops in any effective way in the ACT.

Madam Speaker, I believe that it can be achieved by a rather short and rather simple method. The simple method is simply to ask Ministers - in fact, in the legislation, to require Ministers - to consult with a standing committee of the Assembly nominated by the Speaker. I give as an example an appointment that went through a similar process. An appointment such as Commissioner for the Environment would obviously go to the Standing Committee on Conservation, Heritage and Environment. I will come back to that specific appointment and the issues involved there. Where no committee is nominated by the Speaker or where it is not obvious to the Speaker to which committee an appointment should be referred, then the fallback ought to be the Public Accounts Committee. That is what is provided for in the legislation. It is just a simple demand that the Minister consult with the committee. The Bill also provides for a process whereby an appointment made by a Minister is subject to disallowance in this Assembly. It seems to me that that is an entirely appropriate way for the Assembly to exercise its powers. The power for such things ought to reside with the parliament.

Mr Connolly has asked about the powers of the committees and how the committees will handle such things. The answer is that the committees themselves will determine how they handle that consultation process. It is something that will be negotiated with the Ministers. That is why I draw attention to the appointment of the Commissioner for the Environment. Without being required to engage in any formal process, Mr Wood, appropriately, consulted widely with members of the Assembly as to a nominee that he felt was appropriate. It is clear that members are delighted with the appointment of Dr Joe Baker as Commissioner for the Environment.

We had the power, under an amendment to the Act, to disallow that appointment. If you remember, Madam Speaker, it was an amendment that Mr Berry in particular, and later on other Labor members, suggested would make such appointments absolutely impossible. Mr Berry certainly emphasised that in respect of an appointment to ACTTAB. He said that it would be absolutely impossible to find anybody to appoint if they had to go through any kind of process. That has not been the case; nor do I expect that it will be the case.

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Mr Berry: Once the Star Chamber and character assassinations happen in here - - -

MR MOORE: The favourite term of the Attorney-General is "Star Chamber". In referring to the possibility of a Star Chamber he raises visions of Henry VIII and his Star Chamber court, which was so named because it sat in a room that had stars painted on the ceiling. The Star Chamber was an inquisitorial chamber where the accuser was never known. That is the hysteria that Mr Connolly is attempting to work up.

Mr Connolly: I have actually been referring more regularly, to the Senate system in the United States which is - - -

MR MOORE: He now interjects to say that he is also thinking of the Senate system in the United States. That creates images of McCarthy and of John Proctor in *The Crucible*, for those of us who know the play. Coming out of the Salem witch-hunts, Proctor says, "Is the accuser always innocent?". That is the sort of imagery that Mr Connolly is trying to whip up. In fact, that is just not likely to be the case at all, because that is not how the system is likely to be approached. Under these circumstances, it is much more likely that we are going to have that sort of controversy in the house afterwards, as indeed we have already seen. It is something that can be avoided through a sensible consultation process through a committee system that is non-partisan and that, I think all members agree, has worked particularly well right through the process.

Mr Berry: Why do you not have a committee to appoint them and take the responsibility as well? Go for your life; take the responsibility.

MR MOORE: Mr Berry interjects, "Why do you not have a committee to appoint them?". After we have used this process for a while, we might be tempted. But the way this Bill is framed at the moment statutory appointments will still be made by the Government. It will still be the Minister's prerogative, after consultation, to make appointments. But before an appointment is made the Minister will know the non-partisan view of a committee. A Minister who decides to appoint somebody for a particular reason and feels that the committee's view is inappropriate will risk debate in this chamber on a disallowance motion.

Disallowance provisions put into legislation on two previous occasions - for the ACTTAB board and for the Commissioner for the Environment - have not caused any trouble. Rather than causing the Star Chamber-style problem, the system does just the opposite. Mr Connolly may well remember the size of the American committee hearings on such appointments and realise that this full chamber is smaller than those Senate hearings. So for a committee to look at statutory appointments is a perfectly reasonable and perfectly rational way to go about it.

This hysteria is not really about the committee system; it is not really about Star Chambers. What it is really about is a fear that executive government may have lost some power. It is not just the power to appoint; it is the power to entrench a view. It is the power to entrench Labor ideology in this case or, in the case of a Liberal government, Liberal ideology. We are talking about taking away the power to entrench that ideology by making long-term statutory appointments that will last well after a government falls.

Mr Berry: What you would want to entrench is your ideology.

MR MOORE: Mr Berry interjects that I would prefer to inject my ideology. The truth of the matter is that I believe that decisions on appointments should be non-partisan, so that no ideology dominates. Appointments should be made on merit rather than as a favour or reward. I think that the whole issue can be summed up by saying that this is a Bill about merit rather than mateship.

Debate (on motion by Mr Connolly) adjourned.

FAIR TRADING (FUEL PRICES) (AMENDMENT) BILL 1994

MR HUMPHRIES (10.56): Madam Speaker, I present the Fair Trading (Fuel Prices) (Amendment) Bill 1994.

Title read by Clerk.

MR HUMPHRIES: I move:

That this Bill be agreed to in principle.

This Bill amends the Fair Trading (Fuel Prices) Act 1993, a piece of legislation which in some key respects I would describe as a toothless tiger. What this Bill essentially does is provide for a high degree of consumer protection through a very important but often neglected part of the public education process - that is, through educating consumers about the nature of the price that they are paying for a particularly important product in our community, namely, fuel.

This legislation imposes on retailers of petrol and diesel fuels in Canberra a simple requirement that they display a notice indicating the break-up of the prices that people are paying at the bowser for fuel in the Territory. The format of the notice is set out in the Schedule attached to the Bill. It is a simple format. It contains, essentially, four main elements: Commonwealth Government charges and taxes, ACT Government charges and taxes, oil company charges, and the retailer's margin - the amount that the person actually selling the petrol is making on the sale. This makes service station customers aware of the taxation payment and the private profit payment that they are making when they pay for their petrol. The Schedule itself is of a reasonable size in the 12-point type. It would be about the size of an A4 page. That notice would be on or near a bowser, so people would be able to read it and see what the break-up of the price was.

After a change in the price of petrol has occurred, proprietors are given 24 hours in which to display accurately the information that should be on that form. The reason, of course, is that when fluctuations occur there needs to be a small lead-in time to ensure that service station operators have the opportunity of making sure that the information on those sheets is accurate. It is a very simple form, Mr Deputy Speaker. The information is readily available to service station proprietors from authorities and oil companies, and it is in a standard form. I anticipate, for example, that it will be possible for service station operators to have a form which has blank spaces which can be filled in, if necessary, when the information comes through, and which will be placed on the bowser.

Alternatively, some operators will have access to home computers and will therefore be able to print out a form and put it on the bowser without needing to go through this other process. The information is broken down into only four categories. It is therefore simple to do the calculations and the form is easy to use. There are minor penalties provided for failing to provide customers with the required information. It is essentially, however, an educative exercise, not a penalising exercise.

Mr Deputy Speaker, why do we need this legislation? The answer is that there has been tremendous political debate in the last few months in particular, but over the last few years as well, about the nature of fuel pricing in our community. That has been a debate raging both at the local level and at the Federal level. The debate has been often very acrimonious. It has been a very complex debate. There are many consumers who have only a very vague idea of what the debate is all about. There has also been considerable hypocrisy permeating the debate. Parties who have been beating their chests and pointing their fingers at other parties have, in the next breath, been responsible for price rises themselves.

At the present time in the ACT, the total taxes paid by the consumer at the bowser on petrol stand at a somewhat astonishing 61 per cent. I do not know of any other product available in our community which incurs a tax burden quite as high as that. What this legislation does is ensure that accurate and complete information is available to the consumer at the place where it actually matters, so that Mr or Mrs Canberra can be at the petrol bowser with the nozzle in their car and while they are standing there looking at the bowser they can see accurately what it is they are actually paying for with their dollars. That information is very important, because at the present time up to three-fifths of the cost of a tank of petrol is going to government, to the ACT and Federal governments. Let me give a break-up as of today's petrol price for unleaded petrol, which I think is about 68.4c a litre.

Mr Connolly: And what was it three months ago, before this Labor Government acted? It was 76.4c before this Government acted. If you were running the show, it would still be 76.4c.

MR HUMPHRIES: People should be able to see what you are achieving in the way of lower petrol prices. I am sure, Mr Deputy Speaker, that Mr Connolly will be very supportive of this legislation, because it will allow people to see just what the ACT Government has done, allow them to see where it is that the Government has achieved its lower petrol price. With a price of 68.4c a litre, 34.8c a litre goes to the Commonwealth Government. That is just over 50 per cent of the total price. The ACT Government gets 7c a litre, which is just over 10 per cent of the price, making the total tax burden of 61.1 per cent. Most of the rest goes to the fuel company which distributes the petrol, and about 7 per cent of the total price goes to the retailer. I might point out that the retailer has tended to cop a very large share, perhaps a larger than 7 per cent share, of the total blame for the problems of petrol price rises in recent years. Perhaps this process will make it clear to people that retailers, while not entirely blameless for some price rises, are nonetheless generally not the main culprits when it comes to the high price of petrol.

For a mid-range car with a 50-litre tank, it would cost about \$34.70 to fill the tank. To break that price up, about \$17 of that \$34.70 goes in Commonwealth taxes and \$3.47 goes to the ACT Government, so \$20.37 of a \$34.70 tank of petrol goes in taxes. Of course, Mr Deputy Speaker, this is not about just government generated rises in petrol prices.

Mr Connolly: It is about government generated falls in petrol prices. That is what we have seen in Canberra.

MR HUMPHRIES: It is about retailer generated rises as well and producer generated rises in petrol prices - or, indeed, as Mr Connolly points out, falls in petrol prices as well. They will be reflected very accurately on this sheet. We have not seen too many falls lately, particularly in government charges. It is nice to know that we have been pushing down the petrol price through certain government initiatives in the ACT; but unfortunately the price of petrol is still, in many respects, rising because of Federal and ACT Government increases in charges. Of course, in the recent Federal budget there was a 3c a litre rise in the price of petrol and a further 0.5c a litre rise was generated by the most recent ACT budget.

This legislation will give information to those who buy petrol. There is nothing wrong with keeping the consumer informed, I believe. I was disturbed by telephone calls to my office from service station owners who complained about the fact that consumers would tend to take out new tax increases, specifically the tax increases arising out of the recent budget decisions, on retailers rather than on other people. This particular measure ensures that that level of responsibility is properly sheeted home. The information that retailers would need is readily available through on-line computer systems, and I think that there would be no problem in making sure that the information was up to date and accurate.

Mr Deputy Speaker, I think retailers would welcome this measure. I think even Burmah Oil, a friend of Mr Connolly's, would realise that it would give people who use their product a chance to see that their margins are lower than other margins in the ACT. That would be a competitive edge for those people. They would enjoy being able to offer that advantage. Consumers could see what percentage of the total petrol price their local retailers and, indeed, their local government are actually getting. That is also a valuable process in education. Whatever use is made of this information, it is clearly vital, Mr Deputy Speaker, that people have ample and accurate knowledge of what they are paying for. That is the important thing. I think it is hard to construct any argument at all which says that people should not have the right to see this information in an up-to-date and accurate form.

Mr Connolly: Retailers who want to display it can display it now.

MR HUMPHRIES: Mr Connolly points out that people have the right to put that information up at the present time. If you yourself are responsible for a price rise, you are not likely to want to put that information up, are you? Retailers are occasionally responsible for price rises when their margins increase, which I do not think has happened very much lately. Nonetheless, when that occurs, the interest of those parties in advertising their own responsibility for that increase is not going to be very great. That is why, Mr Deputy Speaker, we need to have some accurate information.

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There are plenty of provisions in this and other legislation requiring people to supply accurate information to consumers about what they are doing when they come to pay for products. This really extends that to a very important part of the budgets of most people in this community - the price they pay for petrol. I commend this Bill to the Assembly.

Debate (on motion by Mr Connolly) adjourned.

SUBORDINATE LAWS (AMENDMENT) BILL 1993

Debate resumed from 15 December 1993, on motion by Mr Moore:

That this Bill be agreed to in principle.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.07): Mr Deputy Speaker, the Government will not be opposing this Bill - in fact, it will be agreeing to this Bill in principle - but it has some detailed suggestions that it would like to see incorporated in the Bill. Later in the debate, after the in-principal stage, we will be seeking an adjournment so that we can negotiate around the detail stage. This Government has a track record of enhancing the rights of the legislature to review subordinate legislation. Members of the First Assembly may recall that, in opposition, I introduced a private members Bill which locked in the fact that once disallowance was moved it was automatic that the disallowed instrument failed within 15 days unless the disallowance motion was debated, so it put the onus on the Executive to bring the debate on in the chamber.

Prior to that, a member could move disallowance, and if the disallowance was not voted on affirmatively within 15 days the disallowed instrument would remain valid. That always had the possibility for a member to move disallowance and for various parliamentary tactics to be employed to ensure that that debate did not come on within the window of time, and then that member would forever lose the ability to have the instrument disallowed. We thought that was inappropriate and we moved to change that. As soon as a member moves disallowance now, the guillotine is poised and, unless the Assembly affirmatively supports the disallowable instrument, it chops down. That was generally supported. I think the ACT Assembly - Mrs Grassby from the subordinate laws committee would know this - remains the only assembly in Australia that has done that. The Commonwealth Parliament did it some years ago in the Senate, but no other State has felt bold enough to do it.

At the moment the position is that the Assembly can disallow any subordinate law, and it has quite extensive powers to do it, given what we moved from opposition. The Assembly can disallow an Act in the sense that it can vote an Act out. Private members can also initiate or amend any Bill before this Assembly. At the moment private members can only, in effect, veto - disallow - subordinate law. In principle that does not seem to be right, and that is why we say that in principle we can support Mr Moore's Bill.

This issue was briefly discussed before the Assembly late last year, when Mr Humphries pointed out that the schedule to an omnibus amendment Bill that we were bringing through provided for some amendments to regulations. We had a discussion about that, and as a result I sought an opinion from the Parliamentary Counsel - Mr Hunt, QC - as to the validity of that, because neither of us could precisely recall precedents where an Act amended a regulation, although we both agreed that in principle that must be so because an Act is a superior instrument to a piece of subordinate legislation. I sought that opinion, which I seem to recall I tabled in this place. That opinion from our Parliamentary Counsel confirms that an Act may itself amend a regulation.

Given that a private member may introduce a private members Bill, it follows that private members can amend a regulation; but they have to do it by way of a Bill, which is fairly cumbersome. If they can do it anyway, and if as a matter of principle it follows that if private members can introduce any Bill they ought to be able to move something inferior to a Bill, the Government accepts the principle that it would be sensible for this Assembly to have a clear and simple process whereby subordinate legislation can be initiated or amended by private members just as Bills can be.

The difficulty, of course, is how that power to amend or initiate subordinate laws, just as private members can amend or initiate laws, fits into the prohibition in the standing orders and indeed the self-government Act in relation to money Bills. I would like - and I have discussed this privately with Mr Moore - to have some discussion to see whether we can come up with a workable system that would see a significant advance in the powers of private members and that would again put this Assembly at the forefront of Australian practice. As the Government has the final responsibility for money Bills, and we stand or fall on the budget, equally the executive of the day has to stand or fall on a lot of the fees and charges that flow from that. There is still the ability to disallow fees. To some extent, if private members would like to introduce the fees we would be quite happy. They could take the heat. It may be that private members would not be rushing around falling over themselves to be the ones to announce the good news of fees going up in the annual round of fee increases.

There is an issue of principle that needs to be addressed, and it needs to be addressed with some care. In some brief discussions I have had with the law officers and Mr Moore I have not quite been able to come up with what the precise form of the amendment should be, but I am confident that we can come up with one. This is not a government stalling tactic. I am being genuine about this. To show our genuineness, we are saying that we agree with the Bill in principle because it is a good thing. The Assembly would probably be unanimous in saying that in principle if a private member has the ability to amend or initiate any law it follows that they should have the power to initiate or amend any subordinate law. If this Assembly is of one voice on that principle, we will stand in stark contrast to our colleagues. Liberal governments in other parts of Australia might follow this example, given that the Liberal Party here has supported it - although I note that many issues that the Liberal Party here supports enthusiastically their colleagues in government seem to back away from, which is a very peculiar set of circumstances.

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Mr Deputy Speaker, the Government will support the Bill in principle. It is, as a matter of principle, a sensible measure. It is not in fact enhancing the power, because private members could, by a circuitous route, initiate or amend subordinate laws, regulations, now. But it would be a fairly circuitous route and it would put members to rather more bother than is necessary. This is a clear statement of principle which must be right. If private members can introduce Bills, it must follow that they should have the power to introduce something that is subordinate to a Bill.

Most business of government that impacts financially tends to occur through subordinate laws, determinations. We have shown, I think, some good faith there too. The Chief Minister and Treasurer some time ago made it very clear that all taxing measures will be brought into the chamber and tabled. That is correct in principle, but some parliaments have taken the view that powers to disallow subordinate laws are limited to laws and that fees and charges and taxes and tax measures should be somehow different. Certainly the disallowance power remains, but initiation and amendment of taxing fees and charges are a separate issue that I think requires some careful thought. We commend Mr Moore for the principle of the Bill. We support the principle of the Bill. This Assembly will be going a further step to distinguish itself from other parliaments if it adopts this Bill, which it probably will unanimously in principle. It is a step that the Government can quite openly say we have supported, because we supported similar extensions when we were in opposition.

There is an issue that needs to be very carefully thought about - how we finesse this around issues of fees and charges. I would like, in good faith, to have some discussions with Mr Moore and other interested members on that. As we develop some amendments, I will certainly give them to Mr Moore and any other members who are interested, and we can perhaps come up with a workable compromise that enhances the appropriate power of individual elected members of this place to deal with laws that affect the public. As is very clear, and as Mrs Grassby's committee often points out in reports, the laws that impact on a citizen are often not the Bills that have been debated in this Assembly but the subordinate laws that are passed underneath them.

We actually have a quite good record in this place which we should be justifiably proud of. Our regulations are actually not so extensive. If you looked on the table in the New South Wales, Victorian or South Australian parliament you would see the volumes of statutes. As they are more grandiose parliaments, they probably have leather bound, luxuriant volumes. Being a modest parliament, we have our statutes in the cardboard loose-leaf folders.

Mr Humphries: I think "poor" is the better word than "modest".

MR CONNOLLY: Yes, that is probably right. You would see roughly an equivalence of what we have in Acts, but you would probably see about as much again in the sheer volume of the regulations. I seem to recall seeing a report or some papers that came out of the Scrutiny of Bills Committee which in fact broke our package down. Our package is much, much smaller. We have been quite cautious about regulations. It may be a function of the size of this Assembly that matters that in another parliament would not warrant coming before the parliament but would be done by the Executive tend to be brought forward here by way of legislation. That is probably a good thing.

Again, it is a matter of principle. If members can pass laws and amend laws, they should have powers to pass subordinate laws that impact on people. Members all seem to accept that there is a proper prohibition or restraint on private members in relation to money Bills, and I hope that we can get some consensus on where we should erect the barriers of restraint around money measures that are dealt with by subordinate regulations. The Government supports the Bill in principle.

MR HUMPHRIES (11.17): The Opposition also will be supporting this Bill, and we are happy to see discussion occur around the chamber about how the detail stage of the legislation will be handled. As Mr Connolly and Mr Moore have both indicated, this legislation deals with what appears to be an anomaly, in that the Assembly itself can initiate, defeat or amend substantive legislation, but can do only one of those three things in the case of subordinate legislation, and that is defeat it. It is strange that minor legislation or minor laws should, in a sense, be more invulnerable than what I might call major laws. The disallowance procedure is a device which operates to a large extent to the convenience and security of the Executive. It gives that body a relatively free hand to exercise certain discretions. It allows the Assembly to determine, if you like, the big picture and the Executive to work out the fine details.

There have been increasing concerns, as the Attorney indicated, about those details in recent years. We have reached a point where it can be argued that in many ways the detail of regulations under legislation in some respects is as important as the legislation itself. To quote two examples, the Animal Welfare Bill was - - -

Mr Stevenson: The animal farewell Bill?

MR HUMPHRIES: Whatever. That Bill was of great concern to this Assembly, but in many respects the crux of the legislation was not so much in the legislation itself as in the codes under that legislation which are still, I think, being enacted. Those codes are quite fundamental to how the legislation is to operate. The Assembly obviously would have an interest in what is to occur under those codes. The other area that I might refer to is the Bill which is currently before the Assembly and which is due for debate this afternoon, the Smoke-Free Areas (Enclosed Public Places) Bill. I think most of us could support the principles engaged in the Bill but would have difficulties with the way in which it is implemented if that is not spelt out very clearly.

Mr Deputy Speaker, we see in both those cases a very strong need for the Assembly to have closer scrutiny of what occurs underneath substantive legislation rather than in the legislation itself. Obviously, as the Attorney pointed out, the Assembly, if it really wanted to, could initiate legislation to amend subordinate legislation, but that would be a cumbersome process and one which I do not think we would recommend generally. This Bill allows the Assembly more say in terms of subordinate legislation, without giving it total control over that process. In other words, although we can defeat or amend subordinate legislation, we cannot initiate it.

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I have one reservation about the operation of the Bill. It means that we, as an Assembly, as elected members, will have to pay more attention to and be more careful about the content of subordinate laws. I am not suggesting that we have been cavalier about subordinate laws when they have been placed before the Assembly in the past, but I think it is true to say that we tend to treat them as a package. We accept it or reject it, and perhaps in the past we have overlooked things about which we have minor misgivings on the basis that we have no power generally to reshape what is in that package of subordinate laws. With the passage of this legislation, that no longer will be the case. We will have to pay a considerable degree of attention to what is put forward in this Assembly and laid on the table by way of subordinate laws if we are going to make sure that we do our job properly, and that means some more work. The old fine toothcomb will be working overtime. My fine toothcomb has almost lost its teeth. I have had 24 Bills to deal with in the last couple of months, and I can assure you that dealing with legislation in detail is a very time consuming exercise. I think there will be more of that going on with the passage of this Bill.

Mr Moore did say in his presentation speech that Mr Connolly had been responsible for the disallowance procedure which is before the Assembly at the moment. I think Mr Connolly corrected the record by pointing out that he was responsible for only that part which dealt with uncalled on motions rather than the whole procedure of disallowance.

Mr Connolly: The reversing of the onus was the key.

MR HUMPHRIES: That has been made clear. There is one final comment I would make. Mr Connolly has complimented the Opposition - I want to repeat it so that it goes into the *Hansard* twice - for supporting many of the measures which come before the Assembly to do with the efficient operation of the Assembly and of government. I would put that down, Mr Deputy Speaker, to the fact that the ACT Liberal Party has more experience of government than all but two divisions of the Liberal Party in Australia - that is, the Tasmanian and New South Wales divisions - at least in the last four years.

Mr Connolly: We thought it had to do with the expectation of length of time in opposition.

MR HUMPHRIES: I will not note that interjection. Perhaps, Mr Deputy Speaker, we find that exposure to both opposition and government gives one a better balance in viewing matters of this kind. One realises that one could end up - I hope that Mr Connolly realises this - on the opposition benches at any point in time without much notice of that, and then measures like this are extremely important to your existence. I commend the Bill.

MS SZUTY (11.23): Members will recall that my colleague Mr Moore introduced this Bill during the December sittings of the Assembly in 1993 - not so long ago - and it is pleasing to see a private members Bill returned for discussion and debate very quickly. I think the reason for that is that it is generally recognised as a very useful and commendable measure for the Assembly to adopt. As Mr Connolly and Mr Humphries have said, the principle behind the legislation is very simple and straightforward. If passed, it will enable members not only to disallow subordinate legislation but also to amend it - a very sensible provision indeed.

I am fond of reminding members of the commitment that my colleague Mr Moore and I made on our election to this Assembly, and I am going to do it again this morning. We did commit ourselves to stable and accountable government. Through the mechanism of enabling members of this Assembly to amend subordinate laws, we are again ensuring greater accountability of the ACT Government through the Assembly, the parliament of the ACT. We are increasing accountability by having administrative decisions able to be reviewed by the Assembly.

My colleague Mr Moore this morning introduced into this Assembly a Statutory Appointments Bill. If passed by this Assembly, the provisions of the Statutory Appointments Bill will enable greater accountability by executive government to the parliament here in the ACT. I need not say more, Mr Deputy Speaker. I commend the Subordinate Laws (Amendment) Bill 1993 to the Assembly, and I look forward to the discussions that I will be having with, perhaps, Mr Connolly, Mr Humphries and Mr Moore on the details of the Bill.

MR STEVENSON (11.25): This Bill is a practical measure that we can expect to increase the quality of legislation and accountability of the Government. For that reason, I support it, along with the other members. There is one point that I would raise and that Ms Szuty mentioned also. She said that it is good to see a private members Bill moving through so quickly. She used the words "very quickly". I would agree that nine weeks is very quick. It is encouraging to know that at least Ms Szuty will support me when I again move to require a minimum of 60 days, which is even more quickly than this current "very quickly" Bill, for a Bill to sit on the table so that people in Canberra at least can have a very quick look at laws before they are passed. They have no chance whatsoever when they are passed within a few days or a couple of weeks or so.

MR MOORE (11.26), in reply: Mr Deputy Speaker, it is with pleasure that I rise. This is one side of the Assembly that people often do not see when legislation comes through. It happens, as we are all well aware, very regularly when there is a cooperative approach to a piece of legislation. Mr Connolly mentioned his concern over the ramifications of financial constraint that we have already over legislation as private members, and how to apply that to this Bill. I feel very comfortable about further negotiations with him. We will inform all members and try to arrange an appropriate time so that members who are interested can be involved in that discussion and so that we can work that out in a sensible and reasonable way.

It is with some pride, Mr Deputy Speaker, that I accept the support for this piece of legislation which moves away from the circuitous route that Mr Connolly referred to earlier whereby we could achieve this sort of goal. It flows from a piece of legislation that I tabled dealing with insulation in houses - something that really ought to have been done by regulation. That drew the attention of Professor Whalan in his work for the Scrutiny of Bills Committee. He said that he was delighted because he had finally come across a piece of legislation that he refers to as Henry VIII legislation; legislation that makes a change and then gives power back to an Executive to undo that, should it so wish. That matter should have been dealt with by regulation rather than by legislation and we ought to have been able to modify it by regulation.

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In the final analysis, the Government did bring forward subordinate legislation on that issue and we were not able to amend it. In fact, that was the issue that motivated me to provide drafting instructions for this rather simple Bill. Madam Speaker, it is with delight that I commend this Bill to the house. I appreciate the support provided by members in debating the in-principle stage, and I accept that in the detail stage a member will move for the adjournment.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

Debate (on motion by Mr Berry) adjourned.

HOUSING ASSISTANCE (AMENDMENT) BILL 1992

Debate resumed from 17 June 1992, on motion by Mr Cornwell:

That this Bill be agreed to in principle.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (11.29): The Government has some significant problems with the Bill that is proposed and we will be opposing it. The Government takes the view that, if this Bill were passed, slowly but surely the assets of this community that are represented by public housing in the older, inner city areas would disappear from public ownership, would become privately owned, and once gone would be irreplaceable. Madam Speaker, one of the issues that have distinguished public housing in this Territory has been the fact that, by and large, we have avoided creating suburbs which represent enclaves of public housing, suburbs which are dominated by public housing. I think there are only two designated suburbs in the ACT where there are no public houses. That, I think, is a matter of which we, as a community, should be proud. It is a reflection of sensible urban planning policies by successive governments, running right back through to the 1950s.

There has always been a commitment in the ACT to mixing public and private housing. That is not to say that there have not been errors. Melba Flats, which was decommissioned by Mrs Grassby when she was the Minister responsible - I think she had the pleasure of driving or directing the bulldozer at the demolition of that site - was a prime example of no doubt good intentioned public housing policy in the 1960s which proved to be quite disastrous. There are some other major flat complexes in the ACT that members are well aware of, which present a management challenge to the Housing Trust and where we are trying to improve tenant amenity and trying to improve community relations. That will always be the case with large flat concentrations. It is certainly something that we will never be building again.

One of the jewels in the crown of public housing in this Territory, one of the enormous assets that we have and one of the great levers that we control for the future development of this community is the fact that we have in the inner city areas quite substantial holdings of public housing. That can be controversial from time to time. It is unfortunate that residents of Ainslie learnt that the Housing Trust is thinking about some redevelopment in public housing in Ainslie through a surveyor's - - -

Mr Cornwell: Why did you not consult them first?

MR CONNOLLY: I will explain, Mr Cornwell. It is always our intention to consult with the residents; but, as soon as the Government says, "Residents, we want to consult with you about this parcel of land", the residents quite properly say, "What do you have in mind?". If the Housing Trust had said in November, "We want to consult with you about that parcel of land", the residents would have said, "What do you have in mind?". The Housing Trust would have said, "Well, we do not have anything in mind". Then Mr Cornwell would have been jumping up in here and saying, "Produce the plans. Where are the secret plans? There is a conspiracy". What we have there is the failure to consult on the preconsultation, early consultation, forward-thinking module, which is a tad silly.

What is occurring there is that the Housing Trust is doing some thinking about what it could do with its asset. We will be doing some sketch plans and concept plans, and then we will go into the consultation mode with residents so that the residents can have some options. Madam Speaker, it really does stand to reason that, when the Housing Trust says, "We are thinking of doing something with that property", residents will say, "What are you thinking about?". If the Housing Trust says, "We really do not know what we are thinking about", the - - -

Mr Cornwell: How do you know that - - -

MR CONNOLLY: What we are thinking about is the option of spending a very large sum of money to bring very old houses up to an acceptable level of accommodation, which would house perhaps 12 families, or doing some heritage-sympathetic redevelopment for aged persons developments. We are looking at the feasibility of what we could do in terms of heritage-sympathetic redevelopment. We are doing some sketches so that we can then say to the residents, "These are the sorts of options we are talking about". If we were simply to say, "We are thinking about some redevelopment", sensationalist politicians like Mr Cornwell no doubt would run to the residents and say, "Look, they are going to build Burnie Court in Ainslie". Since we could not produce the sketch plans to show otherwise, Mr Cornwell would then say, "Uh huh, I have proved the conspiracy, because they will not come clean with their sketch plans". Of course, we would not have any sketch plans because it was too early.

Madam Speaker, there was a bit of a glitch there on the failure to consult at the preconsultation module, but let me assure you that there will be full consultation. The residents will see some sketch plans of what we have in mind. The type of redevelopment that we have in mind there has been done very successfully in other areas of Canberra in the last couple of years. The prime model of that would be the property that is known as Yanga Court, which is on Flinders Way in Manuka, where we owned two very attractive, old, late 1920s Federal Capital Commission houses - tiny houses at the end of very large blocks.

We gutted them, pulled the backs out of the houses, and built six more units between the two properties, architecturally sympathetic to that late 1920s Federal Capital Commission design. We now have some eight aged persons units on that block. As you drive past on Flinders Way, or the little street at the back, the name of which escapes me, which is fronted by a small community park, you really have to look to realise that we do not have two small cottages there; we have a quite high density of urban living for aged persons, done in an extremely sympathetic manner.

That is what we talk about when we say that we have an enormous potential in our asset stock in the inner city to do imaginative and creative things with public housing. Once that asset stock is gone it can never be replaced. The reality is that this Territory will always face difficult budgetary decisions. Money will always be tight, absent finding the gold mine in the Brindabellas. We will always be under pressure to provide more public housing. It would be very difficult for any Housing Minister to say, "In terms of acquisition of new properties, instead of purchasing some properties at \$120,000 per unit, per family, we will purchase an inner city property at \$300,000 per unit". We would be criticised for having bought a very expensive inner city unit for one family, whereas we could have bought three such units in the outer suburbs. That pressure is always there.

The danger, if you lose your inner city properties, with that increasing economic pressure, is that the public housing stock becomes concentrated in the areas of Canberra where housing is most affordable, which tend to be the urban fringe. That creates major changes to the social fabric of this community which most Canberra residents are proud of - that we are an integrated community and that nearly every suburb has public housing. You can drive along streets in Red Hill which would have some of the highest property values in this town and you will drive past public houses and private houses. There is no stigma attached in this community, or there should be no stigma attached in this community, for the fact that there is public housing in a street. There is public housing in some of the best streets in Canberra. That is not something that you could say of Sydney, Melbourne, Adelaide or Brisbane, because - - -

Mr Humphries: People can buy their houses now, can they not?

MR CONNOLLY: Can public tenants buy their houses? Yes, they can. Indeed, we have recently relaxed the period from 10 years to eight years, but we preserve to ourselves a discretion to say, "No, we will not sell that house".

Mr Humphries: And that is retained.

MR CONNOLLY: You are seeking to create a statutory right to purchase a house. We believe that that is a dangerous mechanism. We believe that that is a mechanism that will result, over time, in a gradual divestment of the public housing stock.

The system at the moment, Madam Speaker, does work quite well. Every time a public tenant purchases that public house there is a substantial cost to the trust in replacing the asset. You do not sell that house to that tenant and buy the house next-door at no cost. There is an economic disadvantage every time it occurs. Where a person has obviously locked into the house, has made improvements, and has an emotional affinity to the house, it may be appropriate that they can buy that house. The alternative is that they buy another house with a Commissioner for Housing loan or by other financial methods. If we create

statutory rights to purchase housing in five years we have a major danger that we will lose the inner city housing stock. I am not aware, from the extensive hearings by the Estimates Committee on the Housing Trust last year, when the trust was cross-examined in minute detail by Mr Cornwell, that this presents a problem; that the current system is not working to the point where there needs to be a legislative mechanism.

Mr Humphries is saying that we would reserve our right not to sell properties. I am not convinced that that is the case. I believe that there is a danger that this mechanism would lead to a system where we lose that inner city property. That inner city property is a very valuable community asset. We will increasingly be looking at redevelopment of that inner city property. We will do that by means of a consultative mechanism. If we fail to do that by means of a consultative mechanism we will be in deep trouble in this Assembly, so we obviously will do so.

The sorts of redevelopments that we have in mind are not a mini Burnie Court or a 1960s-style six-pack block of flats, three up, three down, with the architectural qualities of a shoe box, of which there are a few in Canberra, but fortunately only a few, whereas if you drive through Sydney, Melbourne or Adelaide you see suburbs where there is block after block of them. What we have in mind, if members get alarmed about talk of gradually redeveloping the Housing Trust inner city assets, is very much the Yanga Court-style redevelopment on Flinders Way at Manuka, which is architecturally sympathetic, thereby allowing elderly residents who perhaps have been in Housing Trust properties in the inner city for many years to move to more appropriate accommodation, while still retaining their links with the suburb, so that other younger families can perhaps backfill into those properties.

It is a valuable community asset. The Government is concerned that these sorts of legislative amendments would, over time, see that asset whittled away. We have no problem with people purchasing houses. There is, however, a cost every time a person purchases a trust property and it has to be replaced by another property that we have to spot purchase.

Mr Humphries: You have the sale price to put towards that - - -

MR CONNOLLY: Yes, we do, but the price for which the tenant purchases the house is at a discount to the ordinary market price, in this sense - - -

Mr Humphries: No, it is not.

MR CONNOLLY: No, in this sense, Mr Humphries; we value the property, less any improvements that the tenant has made. A tenant who has been in the house now for eight years can say to us, "Look, I put in that garden, I put in those sprinkler systems, and I put in all of those improvements". When we value the property - - -

Mr Humphries: You have not read the Bill - "Sale price, current market value of the dwelling determined by independent valuations".

MR CONNOLLY: Yes, and that is what we do at the moment. You are suggesting that we be harsher on persons who purchase properties, are you? Mr Humphries, our price is the market value of the property, as determined by a valuer; but the valuer, in determining the market value of the property, looks

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at the market value of the Housing Trust's asset when the tenant moved in and discounts improvements that the tenant has made. We think that is a fair system. If you think we should be harsher, that is interesting.

Mr Humphries: That is not what our Bill says, though. Our Bill says something different.

MR CONNOLLY: Your Bill, in that case, is introducing a much harsher provision for existing tenants. If the 10-year tenant has invested a lot of labour and, in some cases, a lot of money in the garden of the property, we currently give them some credit for that in the purchase price, which almost always means that the purchase price that we receive for the house is somewhat less than the spot price of another house in that suburb because we are basically buying the bare property in its unimproved condition. I must say, Mr Humphries, that I was unaware that it was the intention of your Bill to do away with that current method of valuing a sale, and I suspect that you may have been unaware of it yourself.

Mr Humphries: It says so there.

Mr Cornwell: The sale price is equal to the current market value.

MR CONNOLLY: That is a different criterion of valuation from the system that is currently operated, which does give the tenant some degree of credit for the improvement in the property value that has occurred, purely by their efforts. We do it by an independent valuer. We base it on the sale price, but the valuer then provides a mechanism that gives some credit for what the tenant has done. We have corresponded on that, I think, on a number of occasions, Mr Cornwell, where sometimes there is some dispute about how much that should be, and I guess that will always be the case. I was not aware that you were proposing to change that. I thought you were using, in that term, the shorthand for our current practice; but you seem to be suggesting changes. If members had no other reason for being hesitant about this Bill, they might think that that is a reason to be hesitant.

The key issue here is that, by creating statutory rights, this would tend to undermine our stock of inner city housing properties. Under the current system, which is discretionary, we have reduced the period from 10 to eight years. Under the extensive scrutiny of the Estimates Committee, by members who were present, it did not seem to be a system that was so crying out for change that legislative action was required.

MR MOORE (11.44): Madam Speaker, having listened to Mr Connolly, rather than reiterate some of the sensible points he has made, I would like to refer to a situation that I came across on a recent visit to the United States when I met somebody there responsible for dealing with inner city ghettos and problems. I described our public housing situation here and the distribution of public housing throughout the suburbs, and particularly in our inner city. When I described our inner city compared to American cities, for example, it is fair to say that he was absolutely flabbergasted. He said, "If only I had something like that to work with". That is an extreme. Nowhere in Australia fits that extreme, and I recognise that.

I think that very clearly indicates the concern that I have about ensuring that public housing does not become marginalised; that public housing is simply part and parcel of the housing in the ACT; that public housing is not just welfare housing, but is housing that is owned by the public at large and is not considered in some way to be lesser housing and that in some way people are marginalised by so living. The fact that we do have our public housing distributed throughout the suburbs in the ACT, with a couple of exceptions that Mr Connolly mentioned, it seems to me, is a very positive thing.

The arguments by Mr Cornwell in presenting this Bill do carry some weight. There is no doubt about the notion of a tenant's right to purchase. I suppose that is the system that most of us feel comfortable with. There are many occasions when there is absolutely no problem with that; when in fact the Housing Trust can see that its stock is not going to be depleted when somebody seeks to purchase their house. That does already happen and it is an appropriate way to go. It is also appropriate that the Housing Trust retain control of this stock and ensure that it is evenly dispersed throughout the suburbs. For that reason, Madam Speaker, I shall be opposing this Bill.

MS SZUTY (11.47): Madam Speaker, like Mr Moore, I believe that the stated objectives behind Mr Cornwell's amendment Bill seem admirable - to shorten the waiting list for ACT Housing Trust rental accommodation and to enable people to purchase their own homes. However, Madam Speaker, I disagree with his methods of achieving this. I do not agree that allowing the purchase of Housing Trust properties after eight years now, from what Mr Connolly said this morning, is too onerous, and I disagree with the formula presented that says that a purchaser would have to be 25 years old at the beginning of their rental contract to become eligible to purchase trust housing under the present arrangements. Factored into this equation is the premise that a home loan term must be 25 years, and that the purchaser will need to have paid off the mortgage by age 65. Firstly, home loans today are more flexible, allowing repayment after periods as short as 10 to 14 years. Secondly, many people retire before they have paid off their mortgages and use part of their superannuation lump sum pay-out to finalise the purchase of their homes. I therefore do not feel that Mr Cornwell's attempt to support this Bill with that particular argument has been successful.

More fundamentally, the proposal that the trust should be disposing of its assets in this way is short-sighted. The trust at present, from Mr Cornwell's own figures, indicates that 80 per cent of its tenants are eligible for rental rebates. The 20 per cent of tenants who are paying full rental are in fact cross-subsidising those people receiving rebates, providing much needed recurrent funds for the trust with which it can manage its properties. To remove this source of funds would mean that the ACT Government would eventually have to pay for more of the repairs, maintenance and other debts incurred by the trust. I know that this issue is one close to Mr Cornwell's heart, because he has talked about it before; but I am surprised that he does not see that, if the number of full rental paying tenants is decreased, as a consequence subsidisation from government must increase.

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By allowing more existing tenants to buy ACT Housing Trust stock you change the mix of tenants and their distribution across the ACT. The effect of selling existing stock and purchasing more stock in outer areas would be to change the emphasis from public housing to welfare housing, as Mr Moore emphasised in his remarks in this Assembly this morning. The egalitarian nature of Canberra's public housing does not rest wholly on its dispersal through all suburbs; it rests also on the mix of people accommodated in that housing stock. If purchase after five years of full rent were the norm, that mix would change. All people on low incomes need affordable housing, located in all suburbs and not just in outer areas - a philosophy of public housing distribution in the ACT which I thoroughly agree with.

I feel that more can be done to encourage people who can afford to purchase their own homes to move out into the private marketplace. Those who find it financially difficult to make this move do have assistance available to them in the form of Commissioner for Housing loans. Problems do not exist in finding properties for sale in most areas and, if the market is to dictate purchase prices, then this amendment Bill offers no advantage to a trust tenant who wishes to purchase their rental home over a person in the private rental market who decides to buy in the local area they have come to know. What it does do is reduce the stock available to the trust for future rental accommodation and redevelopment. Mr Connolly has mentioned some of the redevelopments that the Housing Trust has done in recent times. Another one well noted in the ACT is the Aubrey Tow redevelopment in Ainslie, which fulfils the requirements of a modern housing authority, providing its tenants with modern, well-designed and appropriate accommodation in a central location.

There will always be a need for housing stock in older areas, for reasons of access to services and facilities by people who are financially or physically disadvantaged. If housing stock in, say, Deakin, Hughes and Garran is allowed to be sold, how will families needing close proximity to hospital facilities at Woden be housed, for example? Claiming that selling Housing Trust properties will enable housing to be purchased in newer areas disregards the needs of people eligible for trust assistance. It has been proven by experience in New South Wales that this approach is dangerous and can create problems for tenants who are left in isolated communities, with large distances to travel to services which are well established in older areas. It also led, in the early 1980s, to the ludicrous situation where the New South Wales Housing Commission had to spot purchase high value and therefore extremely expensive land in inner suburbs to meet its commitments under the Commonwealth-State Housing Agreement.

The ACT Council of Social Service has expressed the opinion that the lower the family income, the greater the need for easy access to facilities such as bus services, medical services and other facilities. Even without action of the kind proposed by this Bill, many low income families will end up being accommodated by the Housing Trust in outer areas and will put their names on a transfer list to allow them eventually to move closer to their support networks. The question can be asked: If inner suburban housing is sold off, will the trust still be able to meet the needs of these people? Once the assets are gone, they are gone. Eventually, just as happened in New South Wales, the trust would find itself having to purchase inner urban properties for housing stock. What is being lost in Mr Cornwell's amendment Bill is the idea that Housing Trust stock is a long-term asset. The average tenancy of a Housing Trust property is 11 years. In some cases tenancies may last for many decades; but at the end of the equation the trust still owns these assets which can be redeveloped, re-leased or converted for the benefit of trust clients.

The Industry Commission inquiry into public housing was informed that, due to the sales policies over the past 50 years, less than half of the stock built by the various State housing authorities remains as public assets. In other words, more than half has been sold off. Such asset stripping compromises the financial viability of the remaining pool of public rental housing, and ultimately leads to higher rents for the remaining poorer tenants and restrictions on the location and quality of public housing. After all, the poorer stock will not be eagerly sought by potential home buyers. The Industry Commission has also been informed that the trend is for people to initiate sales requests for housing stock that is brick, has good design and block size, and is close to services. What therefore is left? I quote from a 1986 essay on this issue. What is left is "a higher proportion of obsolete, or poorer quality stock which does not match contemporary standards and expectations". This is not the way that a commercial operator would manage a valuable asset. It also leaves open the question as to whether, as a recent newcomer to the Commonwealth-State Housing Agreement, the ACT would then be in breach of its agreement, or would the Housing Trust be forced to purchase or construct high-quality stock in areas where stock has been depleted and bear the extra costs of such a policy?

The Government, through the Commissioner for Housing, presently offers low income earners housing loans to enable them to purchase homes. With finance available to low income earners and a more flexible private housing market, I can see no need for the ACT to free up current Housing Trust stock, effectively treating it as though it is private housing. There may need to be a review of the forms of assistance available to people wishing to purchase private accommodation who are on low incomes; but, overall, I am strongly of the belief that public housing stock is just that - public housing stock. It is an asset that belongs to the Canberra community as a whole, and one of the few assets that made the transition from the Commonwealth to self-government in fairly good condition. There are other well-known assets in the ACT which did not. I see no reason to trade the assets of nearly 300,000 ACT residents for the short-term and short-sighted gain of an increased cash flow and a stock of housing that isolates and causes further hardship for future tenants.

Madam Speaker, I would like to refer to the recently published Industry Commission report on public housing. I had a brief scan of this report to look at the comments that were made about selling public housing to tenants. My conclusion on the work that the Industry Commission had done was that they reached rather ambivalent conclusions. On page 76 of Volume 1 of the Industry Commission's report, under "Selling public housing to tenants", they say:

If public tenants are able and desire to buy the property they are renting, they should be able to negotiate with the property manager.

But earlier, in the same report, on page 71, under "Asset management", at the top of the page, they say:

The age profile of the public housing stock, the large housing estates and high-rise buildings are other constraints.

That was in relation to another point. They continue and say:

Some States (for example, Victoria) have a high proportion of older stock built in the 1950s and 1960s. The older, often inappropriate, stock is in part an outcome of State home ownership policies in the 1960s and 1970s when the then newer and better quality stock was often sold to tenants.

I think that is a fairly significant statement which is contained in the Industry Commission's report on public housing.

I was pleased to hear Mr Connolly or Mr Humphries mention that the time for tenants to purchase their public houses has been reduced from 10 years to eight years, but the Minister, and presumably the ACT Housing Trust, retain the discretion as to whether those properties will be sold to tenants or not. I think, in the context of this debate, that that is fairly important. Another issue raised was about the credit given for improvements made to ACT Housing Trust properties. I believe that it is absolutely essential that anybody renting public housing stock in the ACT who improves their properties in some way, shape or form be given some credit for the time and the effort they have put into maintaining that property over that period. I would be very disappointed at any proposal that would overturn that policy as it is currently operating in the Housing Trust.

MRS GRASSBY (11.57): I would have to agree with the Minister, for many reasons. When I was the Minister for Housing this was something that came before me. When I became the Minister I took a tour around, particularly of the inner city housing that the Housing Trust owned. I was quite amazed at the size of the blocks. One of the things that you find with the inner city housing is that the blocks are much larger. I remember an area which we did in Turner when I was the Minister. I think it was four blocks. We came to an agreement with the builder and we were able to do so many housing units. It worked out extremely well. I remember opening them and thinking what glamorous houses we were putting our Housing Trust people into, and this is the way it should be. All through Ainslie the blocks are enormous. The Minister has pointed out what they did with one block that had two very little houses on it. They were able to maintain the tone of the area, keep the heritage tone, yet still put more Housing Trust people in that area.

One of the things you find is that there are a lot of people living in these houses who cannot afford to buy them and who do not want to move. The great fear is that if you start selling these inner city houses people will end up being moved out. Deals can be done by developers for people to buy them and then, not long after that, they turn around and sell them and you find that it has turned into a development area. I feel that we should hang onto the stock in the inner city and use it to the best advantage that we possibly can. Where we have large blocks, or where we have two blocks together, we can put up townhouses, very nice housing. We can then look at some of the areas where we have dilapidated flats and move people who want to get out of them. Many people come to see me, saying that they want to move out of a flat. They have a small child and they want to move out of a two-bedroom flat that is on the second floor to maybe a townhouse or a smaller house. Usually single mums are looking for this. We can be looking at this area. I would have to agree with the Minister on this. I also have to agree with Ms Szuty's comments on it. I congratulate the Minister on the way that he has gone about this.

MR HUMPHRIES (12.00): Madam Speaker, I think that in this debate there has been some extraordinarily sloppy logic applied in working out what it is that is proposed in this Housing Assistance (Amendment) Bill. Let me clear up a few misapprehensions. It is not proposed that government housing, once sold, should not be replaced. There is no reference in this Bill to a house that has been sold not being replaced. There is nothing to say that you cannot buy another house with the money that you get from the proceeds. If the Government sells a nice desirable property to an existing tenant in Ainslie, it has the right to use the purchase price from that sale to purchase another house in Ainslie and preserve the housing stock.

Mr Connolly: Mr Cornwell would say, "Shock, horror! You could have housed two families in Conder".

MR HUMPHRIES: You are the Minister; you set the policy. You can decide whether houses are bought and sold. If someone wants to sell a house in Ainslie you can buy another one in Ainslie. There is absolutely no reason to suggest that the housing stock is going to be depleted merely because tenants have the right to buy their own properties.

The other strange assumption here is that we are going to be dramatically altering the mix of housing and the mix of housing tenants in the ACT. Ms Szuty has suggested that by making available housing stock in the ACT for sale to people who have paid the full non-rebated rent in respect of their tenancy you will make a significant difference to the balance of those sorts of tenants within the housing system. The fact, Madam Speaker, is that at the present time only 15 per cent of tenants of the ACT Housing Trust are paying the full non-rebated rent. A reduction from 15 per cent to 12 per cent, or even to 10 per cent, is going to make an extremely small difference to the mix of tenants in public housing. In fact, the difference is arguably no difference at all.

Madam Speaker, there have been a few other extraordinary statements. Ms Szuty has suggested that tenants, rather than buy their own homes, would be able to move out and buy somewhere else in the area. The point of this legislation is that when a tenant has been in a Housing Trust property for a reasonable period they have established an affection for a house, a sense of proprietorship of a house. They want to look after that house on a long-term basis and they want to buy it. They should be able to buy that house; not another house down the block, not another house where they have not planted the garden, not another house where they have not done some improvements, but that house. That is what this Bill is all about - giving them the capacity to invest in the house that they already have made some investment in. It is not going to be satisfactory to those people to be told, "You cannot buy this house; go and find another house somewhere else in the same street or the same suburb". That is not the point.

Ms Szuty suggested that people should be entitled to a reduction in the purchase price to reflect the improvements that they have made. The Minister has made the same point here. I am sorry that neither of them is listening, but it seems to me that they are missing the point entirely. If the Housing Trust wishes to sell to a tenant on the basis that they give a reduction in the purchase price for

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improvements that have been made, nothing in this legislation prevents them from doing that. The discretion of the Government to sell to anybody, at any time, under any circumstances, is not removed. If Mr Connolly wants to sell a house to a little old lady in Lyneham at half the market price, he is entitled to do so. He can do so.

Mr Connolly: You would then suggest that the little old lady in Lyneham was a Labor mate, and you would be alleging scandal.

MR HUMPHRIES: Mr Connolly is going off on the fantasy tangent here. The fact is that nothing in this Bill touches on that question. Nothing in this Bill prevents you from doing that. But, if certain circumstances are met, as set out in this Bill, there is a right to purchase, and that is the point. If the tenant does not want to pay the full market price, if the tenant wants to pay less than that and ask for improvements, the tenant can go to the Government and say, "I would like to buy my house and I would like you to give me that house on the basis that I pay less than the market price, to reflect the improvements that I have effected". That can happen. There is no problem with that. This Bill does not outlaw that. What it does do is create a further circumstance whereby the tenant can purchase the place if they pay the full market price. So nobody's capacity to buy or to sell is being limited here; you are merely offering a right in certain delineated circumstances.

Madam Speaker, my party believes very firmly that it is better to provide the opportunity for citizens of the ACT, indeed the whole of Australia, to own their own homes if that is their wish. That is a fundamental part not only of my party's philosophy but also of the belief, I think, of most Australians - that home ownership is a desirable goal which should be encouraged and facilitated by government wherever possible. We are not arguing the principle in this case. The Government already makes available homes to people who have been in their tenancies for eight years. We are talking substantially about reducing that only by three years. The fact of life is that that is not going to make any major change to either the composition of the housing stock or the nature of the mix of housing tenants; it is going to make no difference whatsoever.

Mr Lamont: Nonsense! What absolute nonsense!

MR HUMPHRIES: You know that it is not going to make any difference.

Mr Lamont: It is nonsense.

MR HUMPHRIES: If Mr Lamont can demonstrate how that can occur, that is fine. Let us bear in mind that you are able to repurchase other properties with the proceeds of your sale, and you are able to retain substantially the same balance of tenants within your housing properties. Where is the difference? How does this Bill change that? It does not change it.

I have not heard the Government state its belief in the desirability of people being able to own their own homes. I have not heard that being stated by this Government or this Minister at any stage, and that disturbs me. Although obviously it is vitally important to retain public housing for those who require it, it is also extremely important to provide the opportunity for those who wish to leave that system to do so on reasonable terms. If a tenant has been in

a Housing Trust home for five years, if they have established a connection with that place and demonstrate a desire to buy it at a fair market price, as indicated in the Bill, they should have that right. Nothing is changed in the Government's housing policy by that happening. I believe, Madam Speaker, that we, as an Assembly, should be supporting the right to home ownership in those circumstances. Nothing that has been said about this Bill would make me think for a moment that it should not be supported, and I would hope that members of the Assembly would reconsider their position.

MR LAMONT (12.07): Madam Speaker, what one must do when looking at this Bill presented by Mr Cornwell is to take into account the history of the Opposition, indeed of Mr Cornwell, in statements made in this house and made in public about their view of public housing. You have to understand what that view is as far as the intent of this Bill is concerned. I suppose that is what this debate is all about. The intent of this Bill on the one hand could be seen to be a mere reflection of Mrs Carnell's leadership - jumping onto fairly populist issues whenever she can. There is this view expressed from the other side that every Housing Trust tenant wants to be able to buy their house.

Mr Cornwell: This was introduced before Mrs Carnell became leader.

MR LAMONT: Mr Cornwell is probably the only one on the other side who was able to predetermine that there would be a leadership challenge and that Mrs Carnell would finally get up, so I suppose he is to be congratulated for that. It would be interesting to see where his vote went on the day. Mr Kaine can probably tell us that, but obviously he will not.

The intent of this Bill, Madam Speaker, is fairly clear. It is an attempt, by one means or another, to wind down what would be the most desirable of the Housing Trust housing stock. It is quite obvious, in terms of where the ACT Housing Trust has strategically placed itself with its housing stock, that to allow that - - -

Mr Cornwell: What!

MR LAMONT: It has done so in terms of the positioning of that stock in inner urban areas, particularly the inner north and inner south. What would happen as a result of this? Mr Cornwell, obviously supported by Mr Humphries, is saying that a Housing Trust tenant in Reid could pay the Housing Trust \$300,000, let us say, for a house that they may have been occupying for some time and then tomorrow morning the Housing Trust could go out and buy another house in Reid for \$300,000.

Mr Humphries: It probably could.

MR LAMONT: I ask you the question, then, "Why does not the Housing Trust tenant go and buy the other house?"

Mr Humphries: Because he does not live in that other house. He has lived in this house. He wants this house.

MR LAMONT: It is in exactly the same place. It is next-door, across the street, or around the corner. It is just not a reasonable argument, because the extra cost that you are then placing on the Housing Trust to go through that process is a further drain on the resources of the Housing Trust. That is simply it.

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Mr Kaine: Your proposition that he should go and live somewhere else is not a logical argument, mate.

MR LAMONT: It is not illogical at all. The simple fact is that the Housing Trust stock is provided on a particular regime, quite clearly supported by this Government, and also by the Independents in terms of their submissions to this house over the last two years. The basis upon which we provide the Housing Trust is an appropriate way to go. The Liberals are saying, "We do not care what costs the Housing Trust is put to in order to facilitate this process". There is a cost to the Housing Trust in disposing of stock, on the one hand, only to reacquire it on the next day, which is basically what they are proposing - housing stock in exactly the same area, if it is available. So what do you do?

Have a look at, say, a Housing Trust house in Reid. Again I use the example of Reid. I think it is a very good example. It was given to me by Mr Moore. Say you purchase a Housing Trust property for \$200,000. What happens then is that the Housing Trust goes around trying to find another property, let us say in Reid. What is the price going to be? Is the price going to be the \$200,000? The simple answer is no. What are we going to have? We are going to have the friend of the women's refuge, Mr Cornwell, stand up when the Housing Trust pays \$350,000 or \$400,000 for a refurbished house in Reid and be absolutely outraged about it. The sheer hypocrisy of the type of argument that Mr Cornwell has put up, unably supported by Mr Humphries, is testimony to their lack of understanding of the way the property market works in the ACT, their lack of commitment to true social justice as far as having affordable public housing in reasonable proximity to the city -
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Mr Kaine: Since when did you become a property expert, Mr Lamont?

MR LAMONT: Mr Kaine, put it this way: I am not the one who has been removed from the Planning Committee. I will say no more about that issue. You do not even have the support of your own party as far as planning is concerned. Don't you stand up here and throw nasturtiums across the chamber.

Members interjected.

MADAM SPEAKER: Order! Mr Lamont, do not get distracted.

MR LAMONT: Thank you, Madam Speaker; it is so easy. The premise of this Bill, I believe, is flawed. It is flawed in logic and it is flawed in so far as its commitment to social justice is concerned. This Government has a record which is enviable as an administration in this Territory. It also has an enviable reputation around Australia for its commitment to social justice as far as our policies on providing Housing Trust properties are concerned.

To say that we should dispose of that essential housing stock in a very short period, five years - that is a very short period - is simply wrong. It is also interesting to note that the older Housing Trust stock is in the inner south and the inner north. That principally would be the area that this Bill would affect. Given the nature of our commitment to the social justice issues of public housing, it is fundamentally wrong to accept the premise of this Bill. It is wrong as far as proper social justice or good social justice is concerned, it is wrong in an economic sense, and it would be something about which Mr Cornwell would be on the

front page of the *Valley View*, the *Chronicle*, the *Canberra Times* or somewhere else, screaming about the Government spending money in this fashion. It is done as a straight-out populist thing; it is done as a straight-out argument to do no more than pander to a particular interest of the Liberal Party. I believe that this Bill should be rejected. There are obvious flaws - - -

Mr Kaine: What? Housing Trust tenants are a particular interest of the Liberal Party? Thanks for acknowledging that.

Mr Connolly: I think he meant "target".

MR LAMONT: Let him read the transcript, Mr Connolly. He will probably understand it better if it is in writing. The Bill itself is flawed. The premise upon which this Bill rests is flawed. I think that the other arguments that Mr Cornwell and Mr Humphries have put up have been quite adequately demolished by the range of speakers before me.

MR STEVENSON (12.15): Far from the arguments being demolished, they simply stand strongly on a social justice issue.

Mr Lamont: Dennis is going to say, "Flog them off, flog them off".

MR STEVENSON: Mr Lamont says, "Dennis is going to say, 'Flog them off, flog them off'". Where is the logic and where is the social justice in denying people the opportunity to own their own property? Surely we would not deny them that. Is that not the goal? Is that not what we should all be in agreement about? Indeed, is that not the suggestion? Who here denies that that is the goal?

Mr Connolly: We lend them money through Commissioner for Housing loans.

MR STEVENSON: I understand, and that is one of the benefits that I will get to in a moment. The goal surely is to make people responsible for their own lives, to make them self-sufficient; to encourage them to do that, if possible. If that is not possible, obviously we allow a situation where people can be looked after. But is the idea to have people stay in government housing for the rest of their lives, is the idea for people to go on unemployment benefits for the rest of their lives, or should we be doing every single thing we can to encourage - not to force, but to encourage - in this case, home ownership?

The suggestion that there are ulterior motives for the Bill cannot be sustained, because when you read the Bill all you find is the possibility of tenants buying properties. Let us look at what this results in. In New South Wales particularly, and certainly in Victoria, there was a tendency, some decades ago, for public housing to be in the one suburb. We certainly know of places in the western suburbs in Sydney - around Bankstown, Liverpool and so on - some of which, unfortunately, got such a bad name that the name of the suburb was changed. For example, Herne Bay became Riverwood. What happened when the policy of the Housing Commission in New South Wales was changed to allow and to encourage people to buy the property? A number of things happened. First, many people started to take better care of the property. This may be politically unacceptable to mention.

Mr Connolly: We are doing it in lots of suburbs, but not Reid, Ainslie, Red Hill or Barton.

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MR STEVENSON: It is excellent. It may be politically unacceptable to mention that people take better care of property when they own it, but it happens to be true. We have a situation where Dr Hewson - - -

Ms Follett: John Hewson tried that line without a lot of success.

MR STEVENSON: Exactly. Would you decry the fact that what he stated was true? The truth of the matter is that, in many cases you can tell public housing. In Victoria and in New South Wales, where I worked on the road, again and again we could pick properties that were public housing. It may not be politically acceptable to make the statement, but it happens to be true, and it can very easily be proven. If someone was prepared to bet me enough money that I could not do it, I would be happy to show you. Make it worth my while. I will donate it to public housing. That is the truth of the matter when people have ownership of anything. Look at politicians with the people's money. If it was their own money they would not waste it as they do.

It is the principle that was mentioned by Davy Crockett, Senator Crockett. There was a move to spend public money on a particular good deed, and Crockett stood up and talked about the principle. He said that to take public money and to give it to a good cause is not okay. He said, "But I will donate money to this particular cause, and I recommend that other members do so as well". Did they? No, they did not, which proves the point, or certainly makes a strong point, that they are perfectly prepared to spend other people's money but not their own. It is a good principle to look at.

The situation we have here is that people who have a difficulty with housing need some help and encouragement. Mr Lamont said, "Why do they not go and buy another \$300,000 house down the road?". The reason is that they cannot, usually, and there are a number of reasons why they cannot; but they should not have to. They do not want to. Let us look at some of them.

Mr Connolly: They can usually afford a lower cost house.

MR STEVENSON: Exactly.

Mr Connolly: So who is bankrolling them to buy the house in Reid? The developer.

MR STEVENSON: Wait. One reason is that when buying a new place they do not have an allowance for the work that they have done on the existing place they are renting, and we agree with that principle. You are right, Mr Connolly. It is a good point. If a person has improved the property there should be an allowance if they wish to buy it. But they cannot do that if Mr Lamont's suggestion is followed: "Why do they not buy the place down the road?". There would be no allowance.

The next point is that when you have to move there are all sorts of costs involved. Not the least of all is the cost in time of doing it. Why should they have to do that? The next thing is that they have to leave their home if they buy another place. They may have been there for a number of years. Why should they be driven out of their home? Why should we not encourage them, as this Bill does,

to purchase the property that they have? There are also other suggestions that we could make, as a government, in helping people to get lower cost finance over a longer period. We could act as a safer fallback if there are problems, and so on. Is that not a benefit? Is that not socially just?

Mr Connolly: We do that. I will give you a briefing on our home ownership scheme.

MR STEVENSON: Mr Connolly mentions giving "a briefing on our home ownership scheme". The first question we need to ask is: How many people have bought homes under this scheme, percentage-wise, compared to the number of homes there are? If it is very high and accelerating, one would say, "Commendable". But this Bill - - -

Mr Connolly: No; that was Homefund in New South Wales, where they encouraged people to buy houses that they could not afford, and they are all going bankrupt.

MR STEVENSON: That was a scam.

Mr Connolly: It was. Yes, it was a Liberal Party scam, Dennis.

MR STEVENSON: I do not differentiate between Labor Party scams and Liberal Party scams. What happened in New South Wales is that the standard of the properties increased in the communities that had been public housing communities with a bad name. No-one feels that it is now a problem to live in many of those suburbs in the western suburbs of Sydney, but once they were looked upon as being not a nice place in which to live.

Ms Follett: Where do you live, Dennis?

MR STEVENSON: I live in Canberra. In Sydney I lived in the western suburbs. I saw it happening. When my mother had a chance to buy the place, unfortunately we could not do it at the time. But I saw a lot of people who did. It would have been a wonderful situation, and it would have removed the need for the Housing Commission to look after those families. A lot of things come with owning your own property, or owning your own house, or owning a nice Valiant. I do not need another car. A lot of things accrue from that. I have a lot more affinity with it than if it were a government car. I look after it better.

Mr De Domenico: You are not going to paint it purple, though, are you?

MR STEVENSON: Actually, I am thinking of having a purple one. I will get a purple one if there are any purple Valiants around. Another question was raised, and it is a valid point to look at. Mrs Grassby said, "What about the possibility of these people being funded, and then on-selling to a developer?". It is a very important point. I do not think the Bill, which I am about to quote, covers it adequately. It talks about five years. I do not think that is long enough. Before they enter into the contract you say to them, "This is not a short time". Five years is a fairly short time. Look at the Assembly.

Mr Cornwell: You cannot sell it until five years have elapsed; otherwise you sell it back to the Housing Trust.

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MR STEVENSON: I would suggest that it should be 10 years. One could talk about the details. Why I stand is to suggest that we do not just dump this in the central filing cabinet and forget about it. Why do we not look at what agreement we can get, between all of us, to make it work? If we think there are problems, let us make the Bill an extra couple of pages long and put the details in there.

Mr Connolly: Dennis, we will give you a full briefing on what we do, on our current scheme, home loans and all the rest. It would be very helpful.

MR STEVENSON: Stand up and give it to the people of Canberra and the people in this Assembly now. If you are saying that there is no need for the Bill because it is already fully covered, tell us. I will be happy to give you some extra time. That is reasonable. I do not believe for a second that it is covered; I do not believe it at all. But the goal is one that we should have. If there are detailed problems it should be put to a committee where these details can be put forward and looked at, where people - ACTCOSS and others - have an opportunity to say, "Look, we think it is a good idea. We agree that there are a couple of problems. These are the solutions". Does that not make more sense?

What I intend to do, after Mr Cornwell's speech, is move to send the matter to the Social Policy Committee. Well might you laugh, Chief Minister.

Ms Follett: Yes, I do. Are you going on the committee, or any committee?

MR STEVENSON: When you say "any committee", you voted against my going on three in the First Assembly. Every time you mention that, I will mention some of the details of the blocking of my going on various committees, including the Public Accounts Committee. Every time you bring it up, I will bring it up, and I could go further into the politics of that. It just wastes time. You waste your time bringing it up and I waste my time telling everybody what goes on.

MADAM SPEAKER: Mr Stevenson, it is your time. Please go back to the topic in hand.

MR STEVENSON: It is an important point to make, and every time it is done, I will make the point.

The fact that it has been before the Assembly for some time is neither here nor there. Let us simply look at what will best benefit Canberrans and how their money can be best used. There is another benefit. If someone knows that they have an excellent opportunity to purchase the property that they are currently renting, I suggest that that gives them a very nice goal to head toward in life, one that can have direct and excellent ramifications in their lives and the lives of their families, the jobs they get, the work they put in, the improvements they put in on their home, and all other things. There has to be a fair situation. If the place was sold and there was no fair return, then the Government would have to go and buy other properties; but in the situation that we have, provided we look at the correct details, provided we make it work, that can happen. If there is a particular problem in some inner city areas, let us use our ability and the ability of people in Canberra, through submissions to the committee, to work out a solution. I can understand the concerns and I do not disagree with them, but let us not just chuck it down when the principle, the end principle of this Bill, in our hearts, we all agree with.

MR KAINE (12.28): Madam Speaker, the shallowness of the Government's argument opposing this Bill is absolutely breathtaking. It demonstrates that they have no real reason, except a purely ideological one, for refusing to let this Bill go through. I would like to deal with just two points where their argument is so fallacious as to be almost stupid. The first is the straight proposition that a person should not be allowed to buy a house after five years. The simple fact is that they have only to sit there for another three and they can buy it now. All they are doing is exercising their prerogative three years earlier than when they are currently allowed to do so. If somebody moves into a government house and in five years their financial circumstances change such that they are able to buy it, why would the Government refuse to allow them to do so? On what basis would the Government refuse when they know that this person just has to sit there for another three years and the Minister most likely would approve? In a sense there is an absurdity in the Government's argument on this matter. The Minister says, "They are going to buy a house for \$300,000 in Reid and we will not be able to buy another one to replace it".

MADAM SPEAKER: Mr Kaine, it is 12.30 pm, so the debate is interrupted in accordance with standing order 77 as amended by temporary order.

Sitting suspended from 12.30 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Visiting Medical Officers Dispute

MRS CARNELL: Madam Speaker, my question without notice is directed to the Minister for Health. During the recent VMOs dispute a number of doctors provided emergency and often life-saving services to Canberra patients. Will the Minister confirm that he does not intend to pay these VMOs now or in the future for services they rendered during this period - services, may I stipulate, that were provided at the request of the hospital management?

MR BERRY: Madam Speaker, I thank Mrs Carnell for the opportunity to again draw attention - - -

Mrs Carnell: To attack VMOs again.

MR BERRY: You should not ask these questions if they make you babble when I respond. Do not ask them if the answers trouble you. The issue of payment to VMOs who manned, or personned, or staffed the emergency rosters is one that is under consideration. I am, of course, carefully considering this matter because we have to - - -

Mr Kaine: For how long are you going to carefully consider it?

MR BERRY: For as long as it takes. There was not much urgency amongst the VMOs to provide a full range of services to the community of the ACT, so I reserve the right to take as long as it takes to look at these matters and, of course, to get it right. A range of doctors held the community to ransom. There is no question about that.

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Mrs Carnell: Oh!

MR BERRY: They did. Mrs Carnell shakes her head.

Mrs Carnell: What about those who provided services?

MR BERRY: Of course, some of them provided some services. Some of them provided none. There were some who prepared patients and sent them interstate, who did not do their job or who did not do all of their job. What we have to do is to sit down and assess any claims that were made in relation to the services that they provided to see, first of all, what rate would be paid. We have to determine an appropriate rate because there was no contract, according to the doctors. They claimed that that was why they could not work - because there was no contract. So we have to determine a rate. We also have to determine how many of those VMOs broke ranks with the rest but still pretended that they were on strike.

Mrs Carnell: What difference does that make?

MR BERRY: I think it is interesting public information. The impression that was attempted to be created out there was that all of them were on some form of strike and they were not providing services. Now we hear that some were and they want payment for it. There is going to be a very careful investigation into this, bearing in mind what the Auditor-General said about the charging practices of VMOs and the public hospital system. If we are going to pay we are going to make sure that we pay only those who deserve it, we pay only the rate which they are entitled to, and, if there is a payment due, they are paid for the amount of work they performed, and no more.

MRS CARNELL: I have a supplementary question, Madam Speaker. Taking into account the absolute disruption caused by the VMOs dispute last year, particularly to people without private health insurance, can the Minister tell us whether he is, or has been, a member of a private health fund in the last 12 months?

Mr Lamont: That is not a supplementary question.

Mrs Carnell: It is. Come on!

MADAM SPEAKER: I am not sure that it is in order. It is a personal question. It has nothing to do with anything that the Minister - - -

Mrs Carnell: It has everything to do with it.

MADAM SPEAKER: I am sorry for thinking out loud. Give me three minutes to look at the standing orders.

The standing orders state:

Questions may be put to a Minister relating to public affairs with which that Minister is officially connected, to proceedings pending in the Assembly or to any matter of administration for which that Minister is responsible.

That supplementary question is out of order.

Mr Humphries: Madam Speaker, may I rise on the point of order?

MADAM SPEAKER: No. I call Mr Moore.

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

MADAM SPEAKER: Yes, Mr Humphries.

Mr Humphries: Madam Speaker, in respect of your ruling, Mr Berry, yesterday in the Assembly, raised the question of the public-private mix in the ACT. He staunchly defended public health in the Territory, and his position as opposed to private health is very well known and often is shown in this place. Mr Berry's personal status as a privately insured patient, if that is the case, would be of great interest, in the public sense, to Mr Berry's work as the Minister for Health. The question, with respect, should be allowed.

MADAM SPEAKER: Thank you for your point of order, Mr Humphries. I will stick to my ruling.

Medical Services

MR MOORE: My question is also directed to Mr Berry as Minister for Health, and it also concerns medical treatment in the ACT. My question has two parts. First, has any action been taken against doctors who refused to treat critically ill patients during the VMO dispute at the end of last year? Secondly, will the Minister for Health ensure that recommendations made by Magistrate John Burns at the Brian Lankuts inquest are put into practice as soon as possible, thus ensuring that treatment by ACT medical practitioners and subsequent inquiries can be carried out adequately?

MR BERRY: I will answer the last part first. Following the coronial inquest into the death of a patient, the coroner made recommendations which have been examined by senior staff at both Woden Valley and Calvary hospitals. Both hospitals have acted on the recommendations. In particular, the hospitals have confirmed that all health consumers will be informed about alternative specialists and centres appropriate to the consumer's need. In relation to the control of medical records following the death of a patient, the staff of both hospitals have confirmed that they have procedures in place which ensure that the records are immediately placed in the control of the medical administration. This ensures that the records are available intact for staff of the Coroner's Court to collect. I think that addresses those issues.

In relation to the first part of your question, Mr Moore, the ACT Medical Board is in receipt of a complaint which has emanated as a result of the recent VMOs dispute. In relation to treatment that was or was not provided in the course of that dispute, the board has instituted its normal administrative investigation procedures by referring the matter to one of its subcommittees, which they call the complaints subcommittee of the board. After consideration of the available evidence by the complaints subcommittee, recommendations will be made to the board, which will then be in a position to consider whether it is necessary for the matter to progress to a formal inquiry.

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From my point of view, I have to say that the community out there would expect very close examination of the withdrawal of services from certain patients by certain doctors. During the course of the dispute, doctors hid behind a telephone screen and they might be difficult to identify, but they are required to provide the services. The Medical Board is charged with the responsibility of maintaining the confidence that the community should have in the medical profession. I expect that it will make a close examination of this. I trust that, where anything that is unprofessional has been done by any particular doctor, they will act accordingly.

ACTTAB - Contract with VITAB Ltd

MR DE DOMENICO: Madam Speaker, my question without notice is to the Deputy Chief Minister in his capacity as Minister for Sport. Minister, during question time in November and December you confirmed that, based on advice you sought and obtained from the Treasury and the Government Solicitor's Office, you decided to allow ACTTAB to enter into contractual arrangements with VITAB. During question time yesterday you advised us, for the first time, that you, or your department, also sought advice from Price Waterhouse on the bona fides of the company VITAB and/or its directors, and you said that the advice was that "everything was satisfactory". I think those were the words you used. Minister, I now ask: Why did you not mention the Price Waterhouse advice when you were first asked about the advice you sought in questions addressed to you during November and December? Noting that you said that your decision to sign, or to have the contract signed, was based on the advice that you did seek and got from Treasury, the Law Office and now Price Waterhouse, would you now, in the public interest, table the advice from Treasury, Price Waterhouse and the Law Office, together with the briefs given to those three areas requesting their advice?

MR BERRY: No; they are advices to Ministers. I have given the information on the advice that was provided to me. It is all accurate and - - -

Mrs Carnell: How do we know?

MR BERRY: Because I told you. That is how you know.

MR DE DOMENICO: I have a supplementary question, Madam Speaker. In case the Minister has not heard me, will he answer this question? Will you table, in the public interest, the advice you sought and received from Price Waterhouse?

MR BERRY: I said, "No".

Mr De Domenico: Why will you not table the advice, Mr Minister?

MADAM SPEAKER: I think that question has been answered.

MR BERRY: I have answered the question, Madam Speaker.

Bushfires

MR STEVENSON: My question is to Mr Connolly in his capacity as the Minister for putting out fires. It concerns the recent bushfires in the ACT and New South Wales. What review has been done for the ACT with regard to those incidents, and what actions have been taken as a result of that review?

MR CONNOLLY: Members will recall that during the recent bushfire emergency in New South Wales the ACT made a magnificent contribution. Within an hour-and-a-half of a request from New South Wales for assistance we had our first team on the road, and throughout the emergency we were sending integrated teams of rural firefighters, professional urban firefighters, ACT Emergency Service officers and ACT Ambulance Service officers to Sydney. They operated as a task force. The Sydney fires, obviously, were one of the most extreme fire situations Australia has faced for many years and there are enormous lessons to learn from them.

To answer Mr Stevenson's questions as to what we are learning and what we are reviewing, we are doing two things. Mr Bruce MacDonald did the independent review of the fire and emergency services, the report of which was released during the Christmas break, and I think I wrote to all members and enclosed copies of that report. As he had just completed that, I would acknowledge, theoretical review, I asked him to come back and do a quick audit of how we performed at the sharp end. We had, within a couple of weeks, a fire at Curtin which had the potential to be reasonably serious - fortunately, it was put out and it did not do any major damage to property or life - and we had the Sydney emergency. So Mr MacDonald has come in to audit our performance, based on the experience he gained in doing the major review. That document, when I receive it, I will pass on to members, either by tabling it or, if it is out of session, by writing.

Mr Lucas-Smith is the Chief Fire Control Officer for the ACT Rural Firefighting Service and during the emergency was in control of all New South Wales operations for periods. He was often taking the midnight to dawn shift at the State fire control headquarters at Rosehill. That is an enormous responsibility for an ACT officer. It was an enormous vote of confidence by Australia's largest fire service in the officer who controls rural firefighting in the ACT that they were prepared to put the State in the hands of Mr Lucas-Smith. He was standing in for Mr Koperberg during those evening periods. He has been going up to Sydney on a regular basis and sitting in on the debriefing sessions that Mr Koperberg has been running with his senior people and with senior people in the New South Wales police and New South Wales urban fire services. I expect that we will get a formal report from him, but certainly he is benefiting from their experience.

The other thing to say is that, all-up, nearly 300 people from the ACT fire and emergency services went to Sydney. Mr Berry hosted a function to formally thank them on behalf of the ACT community when the emergency ceased. Those 300 people have been in the toughest university of firefighting, in that they were exposed to this major emergency, and that is an enormous asset to the ACT. Our people went up and learnt from their experience. So we are learning from our experience, in that our 300 firefighters were exposed and they are passing that on through their informal contacts. We have a further review being done, a fairly quick review by Mr MacDonald, to assess how we perform practically, given that he had made a major theoretical review of the structural changes that

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we put the fire service through. We also have the advantage that Mr Lucas-Smith is involved in the entire New South Wales debrief. That New South Wales exercise will take some time yet, I think. In due course Mr Lucas-Smith will probably report to me on that and I will pass that on to members.

MR STEVENSON: I have a brief supplementary question, Madam Speaker. Understanding the importance of water in putting out fires, could the Minister have the leak in the first floor kitchen fixed? It has been there for a couple of weeks.

MADAM SPEAKER: I think that you can ignore that.

MR CONNOLLY: Madam Speaker, I will do that. Sometimes Mr Stevenson does not regard me as an authoritative source. I noted that earlier he cited Davy Crockett as an authoritative source. Mr Stevenson, I assure you that I will fix the problem.

Woden Valley Hospital - Bed Numbers

MR WESTENDE: Madam Speaker, my question without notice is directed to the Minister for Health, Mr Berry. Media reports today indicate that another 15 obstetrics beds in both the postnatal and prenatal wards at Woden Valley Hospital have been closed and are unlikely to be reopened. Is the Minister using bed closures at Woden Valley Hospital to achieve his unrealistic forecast of no increase in activity levels this year, or is it just because his health budget has blown out again?

MR BERRY: I can see that you have been taking your advice from Mrs Carnell. You ought to get a new adviser, let me tell you, because Mrs Carnell has not read the book on hospital administration.

Mrs Carnell: And you have?

MR BERRY: You never saw the big picture. I do not think you even got to reading the index. The issue is about hospital beds, productivity in the hospital system, and so on. You cannot use bed numbers as a measure of hospital performance. We have been through this 1,000 times before. You cannot use beds by themselves as a measure of hospital performance.

Mr Connolly: That is what Ron Phillips says in New South Wales.

MR BERRY: Mrs Carnell's Liberal colleague in New South Wales, as my colleague Mr Connolly suggests, also uses that sort of language. He says, "You cannot use beds as a measure of hospitals".

Mrs Carnell: Yes, and he has double the amount that you have - not just a bit more, but double.

Mrs Grassby: So he should have. It is a much bigger State.

Mrs Carnell: Per head.

MADAM SPEAKER: Order!

MR BERRY: When you ask for questions to be asked on your behalf, Mrs Carnell, you ought not to ask for questions to be asked that cause you trouble in the answering. Your babbling just slows down the response. Mr Westende, it is clear, has been taking instructions from Mrs Carnell, because he does not understand the issue. You do not take beds as a measure of hospital performance. You have to look at average length of stay, for example, which is important, and that has been falling over the years.

Mr De Domenico: If you cannot get in you cannot stay.

MR BERRY: There are always services available for emergency care within the hospital system and, as everybody in the ACT knows, there is no question about the provision of emergency care.

Mrs Carnell: But that is all you can get. Doctors have to send people to emergency to get them in for surgery.

MADAM SPEAKER: Order!

MR BERRY: In any modern hospital system, Madam Speaker, emergency care and the use of facilities within the system is supplemented by elective procedures. Mrs Carnell knows that. We have said that for the year 50,500 people was the target. That was pre the doctors strike which, of course, lost a lot of productivity within the hospital system.

Mr Humphries: And saved you lots of money, too.

MR BERRY: Millions of dollars worth of productivity was lost as a result of that and the money, therefore, has been spent. I do not have the money tree at the bottom of the garden with the fairies dancing under it, as Mrs Carnell would wish for. That is the presentation that Mrs Carnell makes. The fact of the matter is that we have a target to work towards this year. It will be less than was first announced because of the money that was wasted by the doctors strike. Those are the facts of the matter. In any hospital system the number of beds which are available from time to time is regulated to make sure that you live within those targets. That is efficient management. Everybody knows that. At the end of the process, Madam Speaker, there will be that target which we said we -
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Members interjected.

MADAM SPEAKER: Order! I would like to remind members of standing order 61, which says that a member may not interrupt another member. Would you please keep that in mind. Mr Berry, please proceed.

MR BERRY: Thank you. Madam Speaker, the number of beds is, of course, changed from time to time. There are agreed slow down periods. As the average length of stay falls the number - - -

Mr Humphries: Agreed with whom?

MR BERRY: With the medical profession and other professions. That will continue to be the case. We are running an efficient hospital system here in the ACT. We are doing it the best way we can with the dollars that are available to us.

Mr Kaine: And the fewer beds we have, the better it gets?

MR BERRY: There will be fewer beds to provide those services because it is more efficient now, Mr Kaine. You did not take that sort of interest in it. Mr Westende should get another book and take some more advice. I am happy to give him some advice on these matters to make sure that he is fully aware of the situation. Then he would not ask these silly questions put, through him, by Mrs Carnell.

MR WESTENDE: I have a supplementary question, Madam Speaker. Seeing that the Minister had some trouble answering the question, I might rephrase it. Does the Minister concede that, if more Canberrans had private health insurance like him, the pressure on our public hospitals would be lessened?

MR BERRY: The matter of my insurance or otherwise has nothing to do with Mr Westende. In relation to private insurance, most people I see who are privately insured have private insurance because they want the doctor of their choice. Continually, people are walking away from private insurance because it is not delivering the goods. If Mr Westende suggests that private insurance is going to be the answer to public hospitals throughout Australia, he is kidding himself. Whether you are privately insured or not, you can expect full access to a quality public hospital system here in the ACT. Whether you like it or not, this Government is committed to a quality public hospital system. We care about access and we will continue to support that public hospital system. Private health insurance, Mr Westende, has little to do with the pressure on public hospital systems.

Mr De Domenico: Are you privately insured? Yes or no?

MR BERRY: I think I have answered the question in relation to my private insurance. Mind your own business.

Gungahlin Town Centre

MR LAMONT: My question is directed to the Minister for the Environment, Land and Planning. Minister, noting that you recently released a quite successful discussion paper on the Gungahlin Town Centre, could you please inform the Assembly when the first shops will open for Gungahlin residents?

MR WOOD: Mr Lamont demonstrates the interest in the future of facilities in Gungahlin. One thing that was not made absolutely clear at the time, perhaps, is the timetable for the provision of those facilities. There is a shop being constructed, I think at Palmerston; but local residents are quite interested to know when the major town centre will commence. A one-off great shopping mall is not going to be developed; it will be staged. It will be done so that all the commercial and retail activities are viable from day one.

Mr Cornwell: And built by the private sector, Minister?

MR WOOD: With some public ownership involved, Mr Cornwell, as most Canberrans are delighted to hear, because there is great benefit in that. There is a discussion paper out now, as Mr Lamont indicated. That will be out until the end of March. We will then prepare the necessary draft variation.

I hope to bring that into the Assembly for the PDI Committee's consideration before the end of this year. Whether you will be able to consider it this year or next year depends on how quickly we can do that. We would expect to release the first site by mid-1995. So the first shop would be up and running some time later in 1996.

Air Pollution - Bus Interchanges

MS SZUTY: My question without notice is also to the Minister for the Environment, Land and Planning, Mr Wood. In response to the first part of question No. 1117 on the notice paper from me
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Mr Wood: I remember it well.

MS SZUTY: You remember it. I asked: "Is air quality monitoring conducted at bus interchanges?". The Minister's answer was very brief: "No". Given that most people would acknowledge that air quality is significantly poorer at bus interchanges than at other locations around the city, does the Minister consider that the current level of monitoring of air quality at bus interchanges - that is, none - is a matter of concern?

MR WOOD: Madam Speaker, we have a number of monitoring sites around Canberra, but not many. I would like to see more, and we examine that prospect whenever there are financial considerations on the table. Sometimes we shift the instruments; sometimes we do some modelling, which gives us a view of how it might be. It is the case that bus interchanges at various periods are a bit smoky. Overall, we are following with interest the Federal Government's lead policy. One of the very sensible things we did here was to lock into the New South Wales Government's proposals, which are gradually bringing down the lead content in petrol. They are on a fairly strict timetable. Contrary to what happened with an earlier government here, the Alliance Government, we have now locked ourselves into that. We do not have to adjust each time they do it; it happens automatically. That is probably the most significant measure we can take and that will see that the lead part of that pollution is reduced. I know that you did not refer specifically to lead, but it is the most troublesome.

We do maintain such monitoring as we can. I do not mind saying that I would like to do a lot more, but you know - no, you do not know the budget situation. The budget situation is difficult. We simply cannot allocate money to every project that we would wish to fund. I think the overall fact, nevertheless, is that the quality of air in the ACT - - -

Members interjected.

MR WOOD: They do not shut up, do they? They seem never to stop. I sit here and listen to them. They just rabbit on all the time. The overall quality of air in the ACT is excellent by Australian standards for a city of this size. We all know that. It does not make for high pressure to do more monitoring, but that does not remove me from interest in making that air quality even better and to do as much as I can to that end.

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John James Hospital

MR CORNWELL: Madam Speaker, my question is addressed to the Minister for Health, Mr Berry. After the stirring defence of the public hospital system, for which I commend him, I ask whether he is also aware that approval was given for a new obstetrics wing at John James Hospital by my colleague Mr Humphries, who was the then Health Minister, in 1990.

Mr Berry: Who will ever forget it?

MR CORNWELL: I am pleased to hear that you have not. Does the Minister believe that it is acceptable conduct for one government to renege on a contractual agreement entered into by a previous government? Does the Minister realise that this broken promise could put the ACT Government, and therefore the ACT ratepayers, in an invidious legal position; not to mention placing himself in a somewhat blatantly contradictory situation if, in fact, he is a member of a private health fund?

MR BERRY: You can back it in that the first port of call if I were to become ill would be the public hospital system because - - -

Mr Humphries: It was not last time, was it? What has happened since then?

Mr Kaine: Was it not Calvary?

MR BERRY: They say, "It was not last time". It was, old son, the public hospital system. Never let yourself forget that.

Members interjected.

MR BERRY: We should have a little period for interjections. I will sit down for a moment and let them have their interjections, and then I will get up and answer their question. You have your little period of interjections. Is everybody quiet?

Mr Humphries: Come on, Wayne; you can answer the question.

Mr De Domenico: Please.

MR BERRY: You never shut up. You really never do, do you? You behave like a bunch of kids.

Mr Wood: It is worse today than it has been for a while.

Mr Moore: Use Bill's teacher voice.

MR BERRY: Teacher voices take a lot of practice, Mr Moore, as you know, and you are better at it than I would ever be. Bill, my colleague Minister Wood, is extremely good at it. There are lessons that have to be learnt by this lot and I will do my best.

In relation to the obstetric beds which were applied for by the John James Hospital, they were refused in 1989 when Labor was in office and then agreed to by the Liberal Health Minister, Mr Humphries. I was advised in 1989 not to approve it on - - -

Mr De Domenico: Ideological grounds.

MR BERRY: No. I was advised not to approve it because it was unnecessary. It was not long before Mr Humphries was in. I suspect that the advice was the same.

Mr De Domenico: It is private money.

MADAM SPEAKER: Mr De Domenico, I have called you to order. Order!

MR BERRY: The advice was the same, but Mr Humphries approved it. We have a situation, therefore, where some years have passed and things have changed in the public hospital system. We have to work out very carefully a model which suits the whole of the ACT, not just a few obstetricians who want a hospital of their own, not just for the wealthy.

Mr De Domenico: Or privately insured patients like you.

MADAM SPEAKER: Mr De Domenico, I have already spoken to you once. Order!

MR BERRY: Mr De Domenico, you can rest assured that I will not be using an obstetrics wing, if you have not noticed. We have to make sure that the private system fits into what we are doing for all of the ACT. We have invited discussion from John James Hospital on this very issue a couple of times, I am informed, and they have not agreed to those discussions at this point. We will be discussing the issue of how we are going to provide obstetric services in the ACT as a whole. The private system, regardless of your view, plays an important part in the delivery of health services in the ACT, and we, of course, accept that. But it is a very small part of the services which are provided and, therefore, will not wag the dog. It will not wag the dog. What I am most careful about is making sure that we have an accessible public hospital system for everybody, and I intend to make sure that the discussions with John James Hospital confirm an outcome which will deliver that.

Mr Humphries: Is it not a bit late? Should we not have done this three years ago?

MR BERRY: You are the one who made the big mistake. Since you are the one who made the big mistake - - -

Mr Humphries: Why did you not reverse it as soon as you came into office, not three years later?

MR BERRY: The advice would have been the same. I was advised not to do it and it was only a few months later that you turned it around, so I do not think the advice changed. A lot of things have changed in the delivery of obstetric services in the ACT. We have a new obstetrics block which is designed to accommodate the needs of Canberra up to the year 2000, and that does not take into account the provision of private hospital services either. Our public hospital obstetrics block and the services we provide from Calvary are capable of dealing with our needs to the year 2000. So there we have it, Madam Speaker. The Government has to go through a lot of discussion on these issues, and it will do so, in order to provide first-class services for the people of the ACT.

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MR CORNWELL: I have a supplementary question, Madam Speaker. I ask the member for Medibank Private: What is the situation with your Government breaking a contractual agreement made by a previous government in relation to a new obstetrics wing at John James Hospital?

MADAM SPEAKER: Mr Deputy Speaker, I ask you to address the member in the proper manner.

MR CORNWELL: Mr Berry. The question is to Mr Berry.

Mr Connolly: I wonder whether I could take a point of order.

MADAM SPEAKER: Yes, of course.

Mr Connolly: There is a standing order that says that questions shall not seek legal opinions. Basically, a question that says, "What is your view on a contractual dispute?" is seeking a legal opinion.

MADAM SPEAKER: That is right. That is within standing orders.

Mr Kaine: What a cop-out!

MADAM SPEAKER: The standing orders apply to all. Order!

ACTNET

MS ELLIS: My question is directed to the Minister for Urban Services. I understand that a special award was granted recently in relation to ACTNET. Would the Minister outline the details of that award to the house.

MR CONNOLLY: I am sure that when ACTNET was first introduced many members would have given it a private award because it took a bit of bedding down. The ACTNET system, which serves some 9,500 telephones in the ACT Government system across 420 locations - it is the largest such computer-driven installation in the Southern Hemisphere, I am advised - to date has saved ACT ratepayers some \$3m because owning the system gives us free local calls from Mr Wood's department head office to a school, from Mr Berry's department office to a health centre, and so forth. Last night the government technology productivity awards were announced at a ceremony at Parliament House and ACTNET received a gold award. It is another example, Madam Speaker, of how this Government is committed to improving productivity through sensible management of the resources of the ACT ratepayers. This technological device to date has saved us \$3m. It is another good example of a responsible administration doing more with fewer resources.

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

PAPERS

MR BERRY (Deputy Chief Minister): Madam Speaker, for the information of members, I present the Treasurer's quarterly financial statement for the period 1 October to 31 December 1993; the ACT Health activity report for the December quarter 1993; the ACT Human Rights Office annual report for 1992-93, pursuant to section 119 of the Discrimination Act 1991; the Australian Federal Police annual report for 1992-93 on policing in the ACT, including the financial statements together with the Auditor-General's report; the National Crime Authority annual report for 1992-93; the Heritage Council annual report for 1992-93; the ACT *Gazette*, No. S282, dated 30 December 1993, relating to the administrative arrangements; and the National Exhibition Centre Trust annual reports for 1991-92 and 1992-93, including the financial statements together with the Auditor-General's report pursuant to the Audit Act 1989.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services): Madam Speaker, for the information of members, I present, pursuant to the Territory Owned Corporations Act 1990, the statement of corporate intent for Totalcare Industries Ltd for the period 1 July 1993 to 30 June 1996, and the explanatory statement relating to the statement of corporate intent.

INTERNATIONAL YEAR OF THE FAMILY Ministerial Statement and Paper

MS FOLLETT (Chief Minister and Treasurer): Madam Speaker, I seek leave to make a ministerial statement on the International Year of the Family.

Leave granted.

MS FOLLETT: I thank members. 1994 has been declared the International Year of the Family by the United Nations and it presents us with many opportunities and challenges. It provides us with the opportunity to celebrate family life, to recognise the importance of families, and to work to support and strengthen families. It presents us with the challenge of openly discussing the changing face of families, of responding to the pressures on families and their needs, and of tackling the issues affecting families today. It also allows us to acknowledge the strength and the warmth of families, and at the same time to be realistic about the problems they face.

The declaration of the International Year of the Family has given rise in many quarters to discussion of what is a family. It would be easy for this debate to distract us from the more important goals of being responsive to the needs, and providing support to the roles, of families in our community. The fact that there is no easy answer to the question of what is a family is indicative of the complexity and richness of family life today.

The face of family life in the ACT is changing, but families in many different forms are still enduring. According to the Australian Bureau of Statistics, in the ACT nine out of 10 people live with at least one other family member. Only 46 per cent of ACT families consist of a couple with dependent children; 16 per cent are single parent families, and of these single parents 85 per cent are women; 76 per cent of single parent families have dependent children; 5 per cent

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are step or blended families, with 9 per cent of all children living in step or blended families; and, of the 83 per cent of families which are couples, almost one couple out of every 10 is living in a de facto relationship. These figures illustrate the diverse nature of families. To concentrate on trying to define a family leads to arguments about semantics rather than to solutions to the challenges facing families today.

Madam Speaker, a recent survey on people's attitudes towards families indicates that families, whatever their structure or type, are valued above all else by Australians. We also know that what really counts is the quality of the relationships between people. It is this that gives families their strength. The Government recognises the great diversity of family structures that exist in the ACT and takes the view that for the purposes of the International Year of the Family a family is any group of people who consider themselves to be a family. This is in harmony with the following United Nations viewpoint:

The International Year of the Family should give attention to strengthening families in ways that increase equality, caring, mutual respect and responsibilities while respecting the diversity of family structures.

Madam Speaker, the Government already does much to assist families. The Government provides assistance to families for the education and care of their children. We provide health care facilities and services to meet the needs of families, and assistance to help families care for aged family members and those family members with a disability. The Government places a high priority on providing support to families experiencing difficulties. It also strives to create an ACT environment that is safe and pleasant for families. In particular, the Government has demonstrated its commitment to providing services to support young people and their families, the elderly, and the carers of the elderly in the ACT.

Reflecting the Government's commitment to young people, a number of significant initiatives were announced in the 1993-94 budget. Funding has been provided for the establishment in late 1994 of the Tuggeranong Youth Resources Centre. The centre will be a venue for young people who live within the Tuggeranong region, enabling them to gain access to information, activities and programs in a safe and controlled environment. Additionally, extra funding has been provided to the school integration program, to allow young people with a physical or behavioural disability requiring special support to be educated within mainstream settings. To provide additional support to young people affected by current levels of unemployment within the ACT, the Jobskills program will continue to fund training positions for the long-term and unskilled unemployed. Funding has been provided for 100 places in 1994-95.

Madam Speaker, the Government also recognises the needs of our older citizens. The Government is tackling head-on the complex issues which need to be addressed in our aged care system. We are actively working with the Commonwealth Government to resolve major issues related to the funding of nursing home and hostel accommodation for the elderly, the provision of respite care for our older citizens, and the improvement of the quality of care for dementia sufferers. The Government is also addressing accommodation choices for older Canberrans by ensuring that the new Territory Plan allows greater

diversity in housing so that aged people have greater choices in affordable accommodation. The Housing Trust has been actively pursuing alternative accommodation options that cater for the needs of older people. The Government also supports older people who wish to remain in their own homes for as long as possible through its continued substantial funding of the home and community care program. An important strategy in enabling people to remain in the community is to promote positive attitudes towards ageing. The Government has embarked on a comprehensive consultative process with senior citizens in order to develop a healthy ageing policy.

During the International Year of the Family in 1994 it is the Government's intention to build on these initiatives for young and older members of families and to improve the quality and accessibility of services and programs we already provide for families. The year provides an opportunity to work towards a number of outcomes for families. We have identified five key themes to meet this challenge, and they are: Improving services for families; helping families to care; making families safer; supporting workers with family responsibilities; and supporting families experiencing economic disadvantage. These themes for the year reflect the Government's strong commitment to social justice. They recognise that the International Year of the Family is not just about celebrating family life; it is also about recognising the issues facing families in our community and, most importantly, doing something about these issues.

By focusing on improving services for families, we will encourage service providers, in both the government sector and the non-government sector, to develop ways of improving the services they provide to families. In order to discover better ways of providing these services and programs, the Government will be asking the community for their views and suggestions, in line with our strong commitment to consultation. We are looking for creative solutions to improve our services - solutions that make the most effective use of our existing resources.

Madam Speaker, families can be a very positive environment in which to care for children, aged people, people with a disability and people who are ill. However, this caring role can be very demanding. By focusing on helping families to care, we can highlight the value of the caring role of families and examine issues such as how best to support the caring capacity of families, and the need to recognise unpaid work. We all realise that some families within the community do not enjoy togetherness, warmth and security. Some families are dysfunctional, and not all experiences within families are positive. During the year the Government will be examining ways of making families safer. The issues of domestic violence and protection of the elderly will be high priorities, along with the promotion of the Government's community safety strategy.

The demands of family life can be quite considerable. Family responsibilities can affect access to the work force and the choice of work undertaken by a family member. They can also affect the ability of that person to participate in community activities. Once in the work force, workers with family responsibilities can face considerable challenges in managing both the work aspects and the family aspects of their lives. The Government has a commitment to supporting workers with family responsibilities. During 1994 the Government will continue to work on this issue, both in terms of developing strategies to support its own employees with family responsibilities and in encouraging private industry to do the same.

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The Government has a strong commitment to social justice and already has in place a number of initiatives to support families experiencing economic disadvantage. During the year we will explore further strategies to provide support to families in need and will take steps to ensure that such families are aware of the support available to them. As you can see, Madam Speaker, from the Government's perspective the focus of the International Year of the Family is on sustained, long-term effort to increase awareness of family issues, and to strengthen and enhance the effectiveness of support for families. This is because families, of all descriptions, make a crucial contribution to our community.

This year is not just a Government effort. It needs community support to have a lasting impact. Every community group in the ACT has the opportunity to participate in and celebrate the International Year of the Family, and we will be encouraging community groups to stage community events and to tackle local issues throughout the year. A calendar of community activities and other significant dates will be published in tomorrow's edition of the *Canberra Weekly*. The Government has produced a booklet, "Focus on ACT Families", which lists services, programs and policies of relevance to families, along with contact telephone numbers. A summary of statistical information on ACT families also has been produced. Theme sheets have been prepared outlining the Government's initiatives which promote our themes for the International Year of the Family. All of the above material, as well as additional material on the International Year of the Family in the ACT, is contained in this information kit which I table, Madam Speaker, and which is also available from government shopfronts.

In closing, I should remind members that the emblem of the International Year of the Family - a heart sheltered by a roof, linked to another heart - symbolises families as providing warmth, caring, security, togetherness, tolerance and acceptance. These are precious assets in our society and something for which we all share a responsibility to nurture and develop. Madam Speaker, it gives me great pleasure to officially launch the International Year of the Family in the ACT. I present a copy of this statement, and I move:

That the Assembly takes note of the papers.

Debate (on motion by Mr Humphries) adjourned.

SMOKE-FREE AREAS (ENCLOSED PUBLIC PLACES) BILL 1993

Debate resumed from 16 December 1993, on motion by Mr Berry:

That this Bill be agreed to in principle.

MRS CARNELL (Leader of the Opposition) (3.21): Madam Speaker, the Liberal Party supports legislation to ban smoking in enclosed public places. Over the years those opposite, and I think everybody who has listened, would have heard Mr Humphries and me speak in many forums about the dangers of smoking, and the dangers of passive smoking as well. The Liberal Party changed its policy in, I think, 1990. The policy says, "The Liberal Party support a ban on smoking in all enclosed public spaces". That includes restaurants, eating places and enclosed sporting events. It also includes shopping centres and so on.

We support banning smoking at all of those venues where there is inadequate ventilation. That policy was put together by a number of health professionals and other people who have an interest in that area. We have been very proud of that policy and we are very proud to stick by it.

If this Bill is referred to a committee or, alternatively, is debated in this house, we will put forward a number of amendments we have drafted, which will really show that the Liberal Party believes strongly that if we are to go down this track of banning smoking, as we think we should, those bans must not be selective. They must be across-the-board bans so as to ensure that whatever legislation is brought down in this place does not create an unlevel playing field. Our approach is that all businesses should be subject to exactly the same rules. Therefore we have major problems, Madam Speaker, with the legislation in its current form.

The legislation, to start with, refers only to tobacco products, not to other plant products that can be smoked. We believe that the legislation should be broadened to include other forms of smokeable products. The area of the Bill that we really have the most problem with is subclause 5(1), which gives the Minister the power to determine where smoking is prohibited, at what time it is prohibited and under what specific conditions it is prohibited. It also gives the Minister the power to set specified and prescribed conditions for banning smoking. Therefore, Madam Speaker, it gives the Minister an opportunity to create an unlevel playing field. Although these notices are disallowable by the Assembly - - -

Mr Connolly: And soon to be amendable or initiatable.

MRS CARNELL: That is right; soon to be, but not at this stage. This capacity for notices to be disallowable in the Assembly in the past, and certainly at this moment, has been a very blunt instrument.

Mr Connolly: Yes, but as of next week it will be a very flexible instrument.

MRS CARNELL: At this stage it is a very blunt instrument.

Mr Connolly: If that is your objection, you are on pretty weak ground.

MRS CARNELL: It is not the only objection, Mr Connolly. What we are suggesting is that any Bill that is passed by this Assembly should actually say what it means. If what we are trying to do here is ban smoking in all enclosed public spaces, even if Mr Berry wants a phase-in period for some premises and not others, possibly, why does he not state that in the Bill, or even state it in his presentation speech? There is no indication, Madam Speaker, of when these bans, or whether these bans, will ever apply to bars, taverns, the casino, possibly, or, for that matter, clubs. I think that the sort of unchecked power that this Bill gives the Minister is inappropriate, Madam Speaker.

Mr Connolly: Unchecked? You admit that it is disallowable.

MRS CARNELL: It could, potentially, as I said, lead to inequitable situations. I understand what Mr Connolly is saying; but, if you are going to go down a track like this, do we want a situation where we spend most of the time in this Assembly - - -

Members interjected.

Mr Kaine: How about keeping the noise down on the other side of the house, Madam Speaker?

MRS CARNELL: No, it is all right when they do it; but not when we do it. In the Minister's presentation speech he indicated that the ban, in the first instance, would relate to smoking in restaurants, dining areas and eating places. At the same time the Minister indicated that he is not intending to ban smoking in establishments where the predominant activity is the sale or drinking of alcohol. Where does that leave bistros in bars and service clubs, where the bar and the restaurant are in the same room? They represent a very large number of the establishments in this city. You have the bar, often in the middle of the room, and the restaurant to one side.

I will give some examples; say, Sails at Belconnen and La Grange at Manuka. They are good examples and they are on both sides of town. Both of those establishments have a split income. I think one of them told me - I will not say which one - that 60 per cent of their income comes from the bar and 40 per cent from the restaurant. That means that they are not in a position to close down their restaurant and stay viable. They would not have to close down their bar; but, if they want to allow smoking, under this legislation they will be faced with the proposition that they may have to close down their restaurant. If that is not the case, is Mr Berry suggesting that some restaurants will still be able to have smoking and some will not? Will the restaurant at La Grange or Sails still be able to have smoking, but a restaurant next-door, that does not happen to have a bar that is the predominant part of their business, not be able to have smoking? If this is not an unlevel playing field, I certainly do not know what is.

Take the situation of the premises I have spoken about. If they do become smoke free, that means that they are likely to lose trade from the smokers who want to have a drink and have a smoke at the same time. So what do those smokers do? They go across the road to the club where you can still smoke in the bar and possibly have a meal at the restaurant, or alternatively go next-door to the restaurant. That means that those establishments will lose trade. They will lose trade because the way that this legislation is put together is simply not fair to all establishments.

Mr Berry: Rubbish!

MRS CARNELL: I will be very interested, Mr Berry, to hear how you are going to overcome these sorts of problems, these sorts of inequities, in the way that the Bill has been put together. We also have somewhat of a difficulty with the Liquor Act of 1975, which states that all licensed premises are required to sell food of an adequate quality and variety. Does that mean that it is all right if you sell pies over the bar, but it is not all right if you put a restaurant in the same room as your bar? If you do that you are going to end up smoke free, but if you sell only some pies and chips you are okay. Again, that is not something that I would assume we would support. When the Drugs Committee was looking at the problem of alcohol and youth, one of the things that became very obvious was the need to encourage young people, when they go out drinking, to have a decent meal. Food does slow down the absorption of alcohol, so we should be encouraging people who are in bars to eat a proper meal rather than discouraging them from doing so.

Mr Connolly: You are really clutching at straws here, are you not, to justify your position?

MRS CARNELL: Absolutely not. We also know from the statistics that in under - - -

Mr Humphries: It is a very good point to make.

Mr Connolly: You do not believe in this, Gary. You are a strong anti-smoker. We know that.

MRS CARNELL: So am I, Mr Connolly, absolutely; but we have to get a Bill that works. We know that a very large percentage of the under-25 segment of our population smoke. This is very unfortunate and something I suspect all of us would attempt to stop, by education and by all of the other approaches that we have all supported in the past; but at this stage they are engaging in a legal activity, one that this Labor Government gets some \$26m a year out of.

Mr Connolly: The Liberal Government in New South Wales probably gets about \$400m a year.

MRS CARNELL: Absolutely; I am not criticising that. I am just making the point - - -

Mr Connolly: You once were a principal advocate of anti-smoking.

MADAM SPEAKER: Order!

MRS CARNELL: I am just making the point that a very large percentage of this group of people smoke. We are bringing forward legislation that will create a very unlevel playing field in the places that they go to at night. This legislation will discourage those places from having full meal service. Assuming that these bars want to allow these under-25s to continue to smoke, they are going to be encouraged to get rid of their meals areas. That has to be a bad thing to do from a public health perspective. Mr Berry claims that the major reason for going down this track is to improve public health. Why is he concentrating on restaurants? Are they just an easy target? Smokers consume a far greater number of cigarettes while they are drinking than while they are eating. Mr Berry has seen all the statistics on that. That is a fact. So why are we suggesting that we should have a total ban on smoking in restaurants while we do not have even a timeframe for the places that are a substantially greater problem for public health - bars, taverns and clubs?

Mr Berry: Read my introductory speech; read all of it.

MRS CARNELL: I have read it, and there is no timeframe at all, Mr Berry, for how you are going to introduce no smoking in those areas. What is the timeframe? We will be very interested to hear it.

Mr Moore: The whole thing was discussed on pages 6 and 7, without a timeframe.

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MRS CARNELL: Without a timeframe; that is right. Mr Berry has suggested that when the community comes along, when the community catches up, he might do it. Quite seriously, Mr Berry, that is not good enough. This is a serious public health problem, so why hit the restaurants and not the others? What we are attempting to do here, Mr Berry, is come up with a position that means that we do have a total ban on smoking in all enclosed public spaces. If Mr Berry were serious about the public health issue he would be looking at a total ban. The Liberal Party believes - I think the Labor Party has said the same sorts of things on occasions - that changing the rules for small business without giving them some opportunity to phase in is simply inappropriate. It certainly makes it very difficult for small businesses to operate. So the Liberal Party is suggesting a total ban with a phase-in period. It is very simple.

Mr Berry: No, you are not. Do not mislead the chamber.

MRS CARNELL: That is exactly what we are suggesting. A total ban on smoking in all enclosed
- - -

Mr Berry: Unless they have ventilation.

MRS CARNELL: Okay; unless there are adequate ventilation systems. That gives a business an opportunity to put in a ventilation system that, under the Australian standards currently, changes the total air in rooms once every four minutes. That is 15 times an hour. Those are the Australian standards for rooms that have smoking in them, based upon an occupancy loading of one per square metre, which is exactly Mr Connolly's approach to occupancy loadings. So, we already have an Australian standard. We already have an Australian standard to provide clean air.

Mr Berry: No, not for smoking. No, you do not.

MRS CARNELL: Yes, we do. There is absolutely no reason, Mr Berry, why this Assembly cannot look at that standard and determine whether it is appropriate. That is one of the reasons why I support the referral to a committee. A committee can look at extraction systems to determine whether it is possible to put them in and to have an environment that is safe for non-smokers. I think Mr Humphries, or maybe it was Mr De Domenico, mentioned the casino a minute ago. We cannot suggest that it is all right to have smoking in the casino but somehow not all right to have it in other establishments in Canberra.

Mr Berry: I have not said that.

MRS CARNELL: But it is true. Why is the casino putting in very expensive smoke extraction systems, Mr Berry, if you have told them that they are going to end up smoke free? I think there was a very good quote when the first sod was turned at the new Tuggeranong sports club. Jim Shonk, the president of the Tuggeranong Valley and District Sports Club, said, "We were very nervous about the impact of foreshadowed legislation about smoking in licensed clubs on our trade and revenue, but it is all right; the Minister has told us that it will not be a problem".

Mr Humphries: What did you say, Wayne?

MRS CARNELL: What did you say?

Mr Berry: Read the speech.

MRS CARNELL: We understand that the Minister has given undertakings to clubs that there will be a very substantial time delay. If that is the case, Madam Speaker, where is the level playing field? Where is the concern about public health? If the Minister has been into poker machine rooms in a lot of the clubs around town, he will know where the smoke problem is. If he has been into a number of the bars and so on, he will know where the smoke problem is.

The Liberal Party's approach, very definitely, is to say, "Look, we have to treat all of these establishments the same. We cannot give some establishments an advantage over others". If we are really going to send out a message to young people, there are not an awful lot of under-25s who frequent restaurants every day of the week. A lot of them frequent bar bistros, but not too many are going to the restaurants in which Mr Berry wants to ban smoking. There is already in excess of 12 restaurants in the ACT that are smoke free, and every day that number becomes greater. Why? Because that is what the clients want; that is what people want. People want a smoke-free environment. But some people also want choice. So what we are suggesting is that, if we can establish that extraction systems do work, do create - - -

Mr Berry: You cannot.

MRS CARNELL: Well, what a good reason to send it to a committee, Mr Berry.

Mr Berry: It is \$30,000 a smoker.

MRS CARNELL: What a good reason to send it to a committee, Mr Berry - to have a look at extraction systems. This legislation - - -

Mr Berry: You are wrong too. You had the answer before. Now you want to send it to a committee. You do not know what you are doing. On 29 January you said that they could go outside.

MRS CARNELL: We know exactly what we are doing. There is information to indicate that extraction systems work very well. There is also information, particularly from the United States, that - - -

Mr Berry: What is the name of the company?

MRS CARNELL: There is also information from the United States, Mr Berry - wait until I finish - from the air quality area of whatever the department is in Washington, that suggests that extraction systems do not work terribly well. I think this Assembly has to come to grips with what some companies and organisations are saying and what other organisations are saying. That is the whole basis of the committee process. We also have to accept that a lot of our young people in this city are employed in the hospitality area, the very establishments that Mr Berry is planning to hit with this legislation. If we are going to give some confidence to this area we have to have legislation that is transparent, so that all businesses know exactly where they stand.

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Therefore, at the very least, Mr Berry, we must have a timeframe for when you plan to ban smoking in all of these other places where you say you plan to ban it, but seem to be giving all sorts of commitments to people that you are not going to.

I have not touched on the stupidity of some of the fines in this area and the obvious problem of attempting to police a piece of legislation that does not have the support of the industry. If Mr Berry went down our track and looked at a phase-in period and a level playing field, the industry would come along with the whole approach, as has happened in airports and on the planes. The reason it works at airports and in planes is that the whole industry came on board. We have a capacity to bring everybody with us on this. Unfortunately, Mr Berry, you have chosen to go down a track that has created an adversarial problem, when you had at your disposal the capacity for every member of this Assembly, or almost every member, to support you.

I will finish off by saying that this is a piece of legislation that is impossible to police, because we simply do not have the people to do so. We do not even have the people to ensure that cigarettes are not being sold to under-18s - - -

Mr De Domenico: But the Minister is going to do it himself.

MRS CARNELL: That is right. It is in there. A piece of legislation about which the industry has not been brought on board, a piece of legislation that unfortunately creates a very unlevel playing field, simply will not work. The Liberal Party totally supports a ban on smoking in enclosed public spaces, but believes that there should be a phase-in period and that extraction systems should be investigated to see whether they achieve the end.

MR MOORE (3.41): Madam Speaker, the long title of this Bill is "A Bill for an Act to prohibit or restrict tobacco smoking in certain enclosed public places, and for related purposes". That is why, Madam Speaker, I have no hesitation whatsoever in supporting this Bill in principle. Some of the hysteria and some of the falsehoods that have been raised in the media by Mr Berry over this issue really do not do him much justice. I think the interjections we heard during the previous speech reflect the difficulties of Mr Berry's own arguments. His own arguments founder on his exemptions for the casino and areas that have poker machines, gaming machines. If he were genuinely interested in the impact of passive smoking he would say that we should proceed with a ban as quickly as possible, and a total ban. He realises that the issue is not as black and white as that. He knows that there are questions about implementation. There are questions about how the goal that he wants, that I believe we all want, can be implemented. The only questions that have been raised over this Bill relate to implementation of the principle and the concept of the Bill, which is carefully spelt out in that long title.

We have heard the approach taken by the Leader of the Opposition. She talked about ventilation, using the Australian standards to get a level of ventilation and to determine whether or not people are exposed to passive smoking. Of course, there is another approach, and that is simply to monitor particulates to determine whether the 40 or so carcinogens or the 2,000 chemicals released through cigarette smoking can be measured, and whether or not we can determine that an area is actually free from smoke or that it is at an acceptable level. Mr Berry, in his speech, talked about an acceptable level.

He interjected when Mrs Carnell was talking about Australian standards on air quality and said, "Yes, but there is no air standard as far as cigarette smoking goes". Mr Berry, you are wrong; there is. You will find it in Australian Standard 1668.2 of 1991. I asked Mrs Carnell for a copy of it when I saw her amendments. In Appendix A of that, in table A1, you will find a reference to food and drink services. I am happy to make it available for you. About three-quarters of the way down the page it says, "For occupancies where smoking is not permitted 10 litres may be approved". It refers to an area where smoking is permitted and where smoking is not permitted, and it distinguishes between the two. So the reality is that some people have already thought about air standards.

There are two issues, I think, that fit under the category of population health in these areas. One is the notion of passive smoking, and what is our level of concern in terms of passive smoking - the sorts of issues that primarily have been discussed here; but there is another issue about active smoking. Where legislation, no matter what its final form, is implemented to prohibit or restrict tobacco smoking in certain enclosed public places, clearly the community is making it very clear that smoking is unacceptable, dirty, grotty, revolting behaviour. That is how I have considered it since 1972, over 22 years ago, when I started to ask people not to smoke in my car, and six months later when I asked them not to smoke in my house.

You have come onto the band wagon very late, I would say, Mr Berry; but we are delighted that you are here. I must say that I am delighted about how well you pursue this issue in the vast majority of cases. In the case of active smoking, it is a question of using community attitudes to reduce the number of people who are smoking. With this will come reduced morbidity and reduced mortality, which, of course, are significant issues not only in terms of public health but also financially. A reduction in morbidity and mortality will reduce our hospital fees and the amount we spend on fixing up people who choose to damage themselves in this way.

I would like to comment at this point on the reaction since Ms Szuty and I pointed out what we believe to be the appropriate way to deal with these issues that have been raised. Since that time we have had Dr Alan Shroot of ASH coming out and saying that it is an absolute sell-out to the tobacco industry; that Moore and Szuty have sold out to the tobacco industry.

Mr Berry: It is. You have sold out. You ought to be ashamed of yourself.

MR MOORE: Mr Berry is saying exactly the same thing. All that reflects is his own zealotry and extremism. The implication of that is that in some way the tobacco industry has had some financial or other influence on us. Such statements about somebody who has been fighting this issue for much longer than you, a reformed smoker, are ridiculous and hardly enhance your cause.

What we really have here is a question of priorities. If you had your priorities set correctly, when you had the opportunity in 1991 you would have knocked off the Prime Minister's XI match when I moved for disallowance. You would not do it because your mate Bob Hawke happened to like the Prime Minister's XI match. You were not prepared to use it as an issue when you could have done a tremendous amount of good right across the country. What would have

happened is that we would have had a tremendous fuss about cigarette advertising. We would have had a different attitude to the sort of thing that we have been seeing sent around now about the Winfield Cup competition and the Prime Minister's XI match being supported by the tobacco industry and so forth. Every time I see one of those things I feel frustrated. We know - you know and I know - that the real problem is that young people begin smoking. That is our biggest problem. That comes about through sport advertising. Nobody can take away from this Minister the fact that he has taken a series of actions about advertising in sport, and I made that very clear by not moving disallowance of his exemption the last couple of times. I recognised that, in fact, he has worked very hard on this issue.

When we look at the issues before us, I have real doubts about whether the Carnell amendment can achieve what it wants to achieve. Perhaps we should be measuring the particulates in the air to see whether that can happen. Then we have issues such as determining what is an acceptable level.

Mr Berry: You are squirming, Michael.

MR MOORE: One of your officers, I presume with your consent, was kind enough to put me in contact with an authority on this issue from the Washington Environmental Protection Agency who has written widely on the problems with ventilation. I said to him, "What is your acceptable level of risk?". You refer to acceptable levels in your speech, so you do accept the notion of acceptable levels.

Mr Berry: No, no.

MR MOORE: It is in your presentation speech. He said, "We work on an acceptable level of one death per lifetime per one million people". He defined that as an adult lifetime of 40 years. That is the acceptable level he worked on when he looked at work ventilation. If you are talking about that kind of level in Canberra, with a population of some 300,000, you are talking about one death in 120 years as the acceptable risk from passive smoking.

Mr Berry: That is silly. That is a silly notion.

MR MOORE: The Minister says that that is a silly notion. He does not want this Bill to go to a committee because he sees it in such a simplistic way. He does not have the intellectual capacity to realise that there is more than one way to look at these things.

Mr Berry: You are squirming, Michael. You are squirming, and everybody knows that you have sold out. You have sold out.

MR MOORE: If you just try to open your mind and listen to what happened when I spoke to an individual that your department put me onto, you will begin to understand what this is about. When you talk about that risk level you are probably talking about the same sort of risk level for passive bystanders of rollerblading or skateboarding. Probably one person in Canberra in 120 years is going to get hit by a skateboard and die.

Mr Berry: I never thought I would hear you use tobacco-speak. You do it pretty well.

MR MOORE: Adopting his normal level of argument, the Minister now goes to slogans about tobacco-speak and so forth. For heaven's sake, for a very short while try to take an intelligent approach. See whether you can understand the sorts of issues that other individuals are wrestling with in trying to balance civil liberties, health issues and population health issues, and come up with a sensible and rational solution to do what your Bill purports to do, to prohibit or restrict tobacco smoking in certain enclosed public places.

Mr Berry: Come on; you are squirming, Michael. That will not get you off. You have been caught. It is too late. You have been caught.

MR MOORE: Continuing in the background, Mr Deputy Speaker, is the jargon, the slogans, the standard Stalinist style of approach to dealing with argument. Instead of dealing with a complex issue in a logical and rational way, we get this Minister trying to simplify things. If he is going to simplify things, if he is really going to be genuine about it, he would not have allowed those exemptions to tobacco advertising which is directed specifically at young people, where the real problem is. That is where the real problem is and where the real health risks are.

Mr Deputy Speaker, this Bill provides some possible solutions - in fact, it may provide, in the end, the best solution - to dealing with smoking in enclosed public places. We can determine that only if we have the chance to have a proper look at it, according to the normal approach that we use in this Assembly. The normal approach is set out in our standing orders. I know that Ms Szuty has foreshadowed publicly that she is going to use standing order 174. Standing order 174 says:

Immediately after a bill has been agreed to in principle a Member may move that the bill be referred to a select or standing committee.

Mr Deputy Speaker, I read this standing order to the 20 or so people who phoned me and said, "You are stopping this Bill; you are being terrible about it". I said, "No, no; let me read to you the standing order. This Bill was tabled in December. It is to be debated in principle. Here is the standing order. That is the normal process. It is part of the normal process of consideration of a Bill; it is nothing out of the ordinary. It is just that the Minister happens to want to push this one through very fast because he wants to sing - and who knows why? - instead of allowing it to go through the appropriate process".

Granted, this is a public health issue, and therefore we ought to work as quickly as we can. That is why I have said that, if the foreshadowed motion of Ms Szuty's is passed, I will be doing my best - and I would hope that other members of that committee, if they are in agreement, will also do their best - to ensure that we have this Bill and recommendations back for debate at the next sittings. I think it is quite possible and I think it is a reasonable expectation. It is a reasonable expectation not only of members but also of the community. It is the appropriate way to deal with issues that have us all going in exactly the same direction, but on which there is some difference of opinion on how we should go about it. That is all that it is about.

MR HUMPHRIES (3.55): The Assembly, I think it could be said, has notched up considerable achievements in the area of winding back the pernicious effect of tobacco smoking in our community in the five years or so since the Assembly came into existence. Just to mention a few of those achievements, the Health Promotion Fund was set up during the life of the first ACT Government - that fund was designed to provide alternative sources of funding from tobacco sponsorship - and the tobacco Act, a major piece of legislation, was passed during the period of the Alliance Government in 1990. That Act was at the time, and perhaps still is, the toughest piece of anti-smoking legislation that this country has seen. It contained, among other things, a ban on almost all advertising of tobacco products in the ACT and it raised the age at which people could purchase cigarettes legally to 18. I must say that I have some doubts as to whether that has been enforced very well since that time; nonetheless that was what the law we passed said. There also has been a ban on most sponsorship of tobacco products in the ACT, and the few exemptions which have occurred have been referred to by Mr Moore. Since that time we have had considerable debate with the New South Wales Rugby League about signage and so on at Bruce Stadium, to make sure that the anti-smoking message gets across loud and clear there. We, as an Assembly, as politicians in this place, have a great deal to be proud about when it comes to winding back the pernicious influence of tobacco.

All of those things, Mr Deputy Speaker, have been achieved with a high degree of consensus. We all perceive the need to attack the toll that tobacco takes on our community, particularly on young people. This Bill before us today, the Smoke-free Areas (Enclosed Public Places) Bill, has shattered that consensus, or, rather, the handling of the Bill has shattered that consensus. We have seen some features about this Bill which I think are very disturbing in light of the very strong degree of consensus and agreement we have achieved in the past. Accusations that people are in the pocket of tobacco companies have flown freely, both in this chamber and in the media. Those claims, Mr Deputy Speaker, are hysterical and they are not befitting the people on both sides of this chamber who have cooperated to provide a high degree of protection for the citizens of this Territory. We have achieved that high degree of protection and we are entitled to take some credit for that fact; but, no, not as far as the person making those claims is concerned. Why parties who are happy to ban advertising, to ban sponsorship by tobacco companies, to raise the legal age on smoking and to do a whole host of other things should now meekly decide to go along with tobacco companies and to believe that smoking is not really all that bad is a little bit hard to explain. Mr Berry has not been able to do so.

In fact, there has been no change of heart on this side of the chamber about tobacco smoking. We acknowledge and we support measures to wind back the influence of tobacco smoking, to give people the right to enjoy the air free from tobacco smoke; but we do not support legislation which is not going to work, legislation which is half-hearted and insincere, and legislation which deals with an area like restaurants where smoking is much less serious than in pubs and taverns - an action that Mr Berry well knows is, with respect, insincere. Madam Speaker, no-one wants to see young people take up this habit, and no-one wants to see the choice of non-smokers restricted in restaurants, bars, hotels and clubs.

What we are concerned about is the objectives of this legislation being pursued at such a high price and in such an unfair fashion that they are either undermined or unachievable and, indeed, at the end of the day lose public support. There is clearly an economic cost in outlawing all smoking in ACT restaurants. There is arguably an economic cost for every decision the Government takes, but let us focus on this question by itself for one minute. Let me illustrate the fact that there is an economic cost by reference to the Minister's own remarks. He has said, not just here but in many other places, that it is quite unfair - you would describe this as an unlevel playing field, I think - for some restaurants with certain high-powered air ventilation equipment to be allowed to accommodate smoking patrons. Why has he said that? Why is it unfair for some restaurants to have that and others not? The reason clearly is that he believes - I think there is some argument for this - that the smokers will patronise those establishments which allow them to smoke and that those without that equipment will be disadvantaged when it comes to patronage.

Mr Berry: Who said that?

MR HUMPHRIES: You have not said that, but by implication that must be what you are saying. There is no other logical reason for saying - - -

Mr Berry: Gary, we do not think the same way.

MR HUMPHRIES: That is pretty clear, and I am bloody glad of that. Madam Speaker, the reason that you would have to say that you are creating an unlevel playing field is that presumably smokers would move to other restaurants. That is the only logical reason for it. If there is another reason, Mr Berry can tell us what it is; but I do not think there is another reason. Clearly, smokers are going to move if they are forced out of restaurants which have no smoking. If they can go to other restaurants where there is smoking allowed, presumably they will go there. That seems logical to me.

This is a major contradiction in the Government's case, of course, because the Minister says very clearly in his presentation speech, which I have read, that the restaurant industry as a whole will not be disadvantaged by the passage of this legislation, that it will not lose patrons, that it will not suffer an economic loss; but he also admits, in making that assertion about an unlevel playing field, that smokers will try to escape those restrictions if they can. Is there a way for smokers to escape the restriction of a blanket ban on smoking in restaurants? I would argue that, yes, there is a clear way of escaping; there are a number of ways, in fact.

They are able to go to taverns, pubs and clubs in the ACT where they can still socialise and consume alcohol and perhaps small amounts of food, like chips and things, without being affected by this ban, at least in the short term. There is the provision in many places in the ACT - a short five-minute walk from here is ample evidence of that - of outdoor eating establishments. Alfresco eating is going to become extremely popular in circumstances where smoking in enclosed public eating places is banned. There is also the simple fact that today people can buy most foods they eat in restaurants in takeaway form and can consume them in their homes at perhaps somewhat less cost. It will result in considerable loss of

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jobs in the restaurant industry if people shift from a high service content kind of industry to a low service content industry such as takeaway food. There is also the fact that only a few kilometres from here we have a major community, Queanbeyan, which has restaurants which will not be affected by these arrangements.

It is not just smokers who might be tempted to take up the option of choosing one of those four avenues to escape this kind of legislation. There are others who would make that choice. They are people who want to fraternise or associate, or members of the families of smokers who want to go with those people, to be with them in a social context, and who accept their strong wish to go somewhere where they can smoke.

The point I am making, Madam Speaker, is that there is an economic cost to this decision. It is not enough for the Minister to say, "Nobody is going to lose their job, nobody is going to lose any custom or patronage, nothing is going to change, everything is going to be hunky-dory". That might have been the case if there had been a considerable alienation or disenfranchisement of the adamantly non-smoking community from restaurants in this town. If there were no places they could go to I would accept the argument that their arrival in the restaurant industry would offset possibly the departure of smokers. But we all know that there are many places in the ACT at present where you can enjoy a completely non-smoking environment, and many others where the existing non-smoking areas are quite adequate and do not result in people having to inhale cigarette smoke. So that argument does not hold up.

Is the Government aware of this cost? I think the answer is yes. The reason I say that they are aware is the decision I believe to have been taken, but not announced by this Minister, to allow the ACT casino to continue to have smoking indefinitely. At present high-powered extraction systems are being built at the ACT casino in the knowledge that they will be able to use them and to continue to allow smoking patrons to smoke in their premises. That is an admission, if ever I saw it, that there is an economic cost to taking this decision. The Minister knows that he cannot possibly afford to drive away the many smoking patrons, particularly Asian smoking patrons, who go to that casino. He knows that the Government depends on that revenue and he knows that they cannot reverse that decision.

Mr Cornwell: So it is all right to do it then.

MR HUMPHRIES: The point is that if there is a cost in driving people away from the casino there must also be a cost potentially for other people not being able to patronise certain establishments. The fact is that no evidence has been put before us about the circumstances in which this might occur. We have had discussion already in this place, from Mr Moore and others, about the nature of extraction systems. I would like to know what the situation is with respect to extraction systems. I would like to know whether they are capable of delivering effectively smoke-free areas, even within the same room, to non-smokers. Mr Berry confidently asserts no, that it cannot happen; that it is impossible. I am afraid that I do not share Mr Berry's blind logic. I do not see the world in the black-and-white terms in which Mr Berry sees it.

I believe that the appropriate thing for this Assembly to do, before it takes this very momentous and courageous step, is to refer this Bill to an appropriate standing committee of the Assembly, to ensure that that issue particularly is thrashed out. I would like to see that happen. Perhaps at the end of the day a cost to the restaurant industry in terms of patronage lost or jobs lost or revenue lost is an acceptable price to pay. Perhaps we should be saying to ourselves that the saving in health costs to this community is worth the loss to the restaurant industry. Perhaps we can say that. But we need to know what that equation is. We need to know what that level of effect on that industry is, and, frankly, the Government has made not the faintest attempt to explain that phenomenon; nor has it even acknowledged expressly that that might occur.

There are other problems, Madam Speaker. Another is the undisclosed timetable which is behind this Bill. What is wrong with the Minister allaying the concerns of our community and the members in this place by putting on the table the Government's long-term plans, if there are any, for establishments like taverns, bars, clubs and the casino? Why can we not know that? Are we not to be trusted with that important public health information? Are we going to misuse it? Are we likely not to understand it? I think the timetable is pretty understandable by anybody. Why cannot the industry know? Why cannot the community know?

Mr Berry: They will.

MR HUMPHRIES: The question, Minister, is: When? When will they know? Can they know before this becomes law?

Mr Berry: Shortly.

MR HUMPHRIES: Fine. I am looking forward to hearing that. I would like to know particularly whether the Minister considers that the giving of a blank cheque of this kind in respect of this kind of legislation would be tolerated in any other area of government. I suspect that it would not.

I am also concerned, as I have said before, Madam Speaker, at the serious misdirection of this piece of legislation. If we were going to strike a blow for public health in the Territory, what is the place or the category of places where we would first legislate to ban smoking? I do not know about other members, but I have gone to lots of restaurants over a long period and in my opinion restaurants today, from a passive smoking point of view, are considerably safer places than they were 10 years ago. Today there are many more non-smoking areas available to people like me, and there are many more restaurants without any smoking at all. Indeed, there is a change of culture in restaurants in this community. People do not smoke as much in restaurants, even if they are smokers. That is an indication of the extent to which the environment has changed.

But, Madam Speaker, that simply cannot be said about taverns and bars, or clubs, for that matter. The problem there is very serious. The question needs to be asked: Why did the Government move on restaurants? (*Extension of time granted*) I thank members. Madam Speaker, why is it that those other areas where there is a considerable problem with passive smoking have been overlooked?

Mr Berry: Read the speech.

MR HUMPHRIES: Why have they been overlooked? There is no timeframe. You are not moving on that area at all at the moment. You are looking only at restaurants at this stage. Madam Speaker, the question has to be asked: Why this focus on that? Is it because it was easy to make a nice grandstand on that point, on that area of public health, and not tackle the really hard issues? I prefer to see an approach which sets out clearly to the community that this is a first step which will be followed up by legislation dealing with all enclosed public places within a definite specified and public period. That is what I look forward to as a result of the referral of this matter to a standing committee of this Assembly.

Mr Berry has attacked the motives of my colleagues, particularly Mrs Carnell, on this matter, in the media and here. We are in the pay, according to Mr Berry, of the tobacco companies; we speak tobacco-speak; we have been turned around; we have been bought off on the question of tobacco. Let me reciprocate by making some speculation about Mr Berry's motives in pursuing this issue. Mr Berry's position on tobacco, I suspect, is very much part of his personal re-election strategy. He does not care how unfair this regime might be to the industry it directly affects. He does not care whether at the end of the day a few jobs might be lost out of this procedure. He does not care what is said about him by people like the tobacco companies, because in some ways it is almost a good thing to have someone in the tobacco industry attack you. He is interested only in looking like a man who can be trusted on public health, a man who is zealous enough to knock down all obstacles in the path of getting this in place.

You might think in an election year that that is worth doing, at whatever cost it is to the community and to individuals. I do not take that view. I have a broader responsibility as a member of this place, to ensure that the decisions we make are responsible and sustainable. I want to see a long-term, viable plan to make smoking a thing of the past, and I do not think that Mr Berry's plans are going to do that in any way or form as they presently stand.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.13): Madam Speaker, Mr Humphries was quite correct when he said at one point in his speech that this Bill, if passed, would be a momentous and courageous decision for this Assembly. That is why I am pleased to be supporting Mr Berry's courageous and momentous landmark piece of legislation which will present a framework for progressively introducing anti-smoking areas in the ACT. Mr Humphries was also correct in saying that this Assembly has a good record on anti-smoking issues. We have introduced a number of measures, and that was done in a bipartisan manner. It is significant that some of the people who are now seeking to slow down this process, who are opposing the Bill or wanting to send it off to a committee, have been very keen in the past to be the great champions of anti-smoking. Mr Moore has been jumping on the issue of the cricket game.

Members interjected.

Mrs Grassby: I raise a point of order, Madam Speaker. I think the last speaker was heard in reasonable silence. I would like to hear what this speaker has to say.

MADAM SPEAKER: Let us try one at a time for interjections.

MR CONNOLLY: Madam Speaker, I recall that last year, around January, Mr Berry had a well-earned break for a week or two and I happened to be acting as Health Minister. Mrs Carnell was out there putting out press releases, demanding that we take firm action to protect people from passive smoking in the casino; saying that it was outrageous that people were smoking in the casino and we had to take some strong public health measures. Mrs Carnell has been strong on this, and Mr Humphries has been strong on this; but when push comes to shove, Madam Speaker, when vast sums of money flow into this Territory to run glossy television advertising campaigns, political leadership and backbone evaporate on the other side and they will not stand up and support this "courageous and momentous legislation", to quote Mr Humphries. So they have to justify a retreat.

We have two propositions advanced by the Opposition to justify the retreat. The first, and this was the strongest point, is that it is a blank cheque. Mrs Carnell, in her first point of attack, says, "This is outrageous because we are allowing Mr Berry, the Minister, to implement this strategy. It is a framework that allows the Minister to declare areas to be smoke-free". "What is more," she says, "he can impose conditions". That argument is fatuous because, as Mrs Carnell acknowledged about two minutes after making it as her lead point, the Assembly can disallow such an action by Mr Berry. Moreover, Madam Speaker, as a result of the unanimity of this Assembly, it is clear that from next week - we assume that we will debate it next week - this Assembly can not only disallow a declaration by the Health Minister but also modify or change it. So this blank cheque argument is just so much stuff and nonsense. Proposals to ban, as they are progressively introduced by Mr Berry, will be fully amenable to debate and to amendment in this Assembly. So that is a facile argument. They seem to suggest that this would be all right if it were in the legislation. It matters not whether it is in the legislation or in a subordinate instrument, because this Assembly, as of next week, will have power to deal with a subordinate instrument just as it does with a Bill. That is a fairly hollow argument.

The next point, and this is one that Liberals are always fond of when they are in a bit of a bind, is a level playing field. They say that we cannot have a level playing field.

Mr Humphries: Yes, we can. We must have a level playing field.

MR CONNOLLY: We must have a level playing field, and they say that this will create an unlevel playing field. Madam Speaker, that argument could have been used, and I seem to recall was used, at every point in the advance of anti-smoking moves in Australia. We were also told that it would be unworkable; but, again, we have always been told that.

When the Federal Government some years ago banned smoking in domestic aviation we were told that it would be unworkable. We were told that people would not fly; that they would use other means of transport. What happened, Madam Speaker? Absolutely nothing. People still fly. The industry always wants to blame the government. When you get on a plane they say, "Australian regulations prohibit smoking". They do not say, "Qantas or Ansett prohibit smoking". The industry likes the position that the government has acted to ban smoking. They can say to their would-be smoking clients,

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"Do not blame us; blame the government". The point is that there still would be smoking clients on those aeroplanes. There was no shift away from aviation when those bans were introduced. Indeed, so successful was it that within a fairly short period we saw similar bans on other forms of public transport.

What is more, Madam Speaker, not that long ago the decision was taken in respect of Qantas to ban smoking throughout the Qantas network; that is, overseas. There had been a position where non-smoking was enforceable and was enforced for international airlines in Australian air space. My understanding is that that remains the position for all airlines, but Qantas has gone one step further and has had smoking banned throughout the network. It has banned it internationally. If there was a non-level playing field argument, there it was. If there were going to be vast economic consequences because people would express their choice by going where they could smoke, not where they could not smoke, Qantas would be in trouble on their international network, and, of course, they are not. So, to say that you cannot have a playing field that is not level is nonsense.

The history of movements to prevent smoking in Australia has been one of sequential movement to different industries and, what is more, to different sectors within different industries. In respect of transport, it was first domestic aviation; then it was international aviation within Australia; and now, for the Australian carrier, it is throughout the network. Never at any point was there a level playing field, because when it was first banned in planes it was not banned in trains. We did not have a level playing field, but it worked. It worked very successfully, with no adverse economic impact. Equally, Madam Speaker, the decision to ban smoking in public sector employment places was going to be unworkable and could equally be argued to be not a level playing field; but, Madam Speaker, it has worked extraordinarily well.

Madam Speaker, there is hollowness to the Opposition's arguments. The point is that Mr Berry has put them on the spot. There has been lots of rhetoric from Opposition and Independent members that we should take the anti-smoking position in the ACT further. Since Mr Berry put the legislation on the table we have seen a massive campaign in this Territory, with a lot of money spent, to prevent this legislation getting up. Members should be concerned at the vast sums that obviously were required to run a television advertising campaign. Nationally the eyes of people who are concerned about anti-smoking issues are on the Territory. That is why, presumably, there was plenty of money to run television terror campaigns, such as, "Are you going to lose your freedoms?" - all of the stuff that is usual when there is an anti-smoking message.

There is still overwhelming support for anti-smoking. I do not want to anticipate Mr Stevenson's remarks, but I see that in his surveys the majority always favour a smoke-free option. The question is: Is it a hollow option when you have smoking and smoke-free areas? People who say, "Yes, have that", want it because they want to be freed from smoke, and it is very debatable whether that would work. Really, Mr Stevenson's conclusions are very similar to Mr Berry's conclusions which talk about 70 per cent of people wanting a smoke-free environment when they go to a restaurant. Mr Humphries says that the non-smokers who would otherwise have gone to the Oak Room will now go to Macca's and get a hamburger instead, because they cannot have a cigarette in the Oak Room, and so we will lose employment.

Mr Humphries: No, the smokers; not the non-smokers.

MR CONNOLLY: Yes, the smokers will not go to the Oak Room; they will go and have a Macca's. I really do not think that is valid, Mr Humphries. It would be a bit like saying that the smoker would catch a bus to Perth rather than fly, when the airline ban was first introduced, and, of course, it did not happen. You are drawing a very long bow there.

Madam Speaker, Mr Berry has put the Liberals and the Independents on the spot. We have Mr Humphries's words; that we have here a momentous and courageous opportunity for us to pass into law a framework for a progressive measure to take smoking out of public areas in the community. We have a regime which would allow this Assembly full debate. It has the option to disallow or to modify. Indeed, if Mr Humphries felt that Mr Berry was being tardy in bringing forward measures, and Mr Humphries was so enthusiastic to ban it in front bars before we ban it in restaurants, which seemed to be his proposition, once we pass the Moore amendments to the Subordinate Laws Act Mr Humphries can have the honour of introducing the determination to ban it in the front bar if he thinks that is where it should be banned first. So, we have every opportunity for this Assembly to have charge of that process.

Madam Speaker, this is a significant opportunity. The eyes of a lot of public health experts in Australia are on this Assembly as we debate this Bill. I think a lot of those people would be concerned at the sort of advertising campaign and the sort of advertising resources that have been operating in this Territory over the past few weeks, with large-scale television advertising campaigns. I think it is the first issue-specific television advertising campaign in the history of this Assembly. I cannot recall TV advertising campaigns on an individual Bill at any time during my membership. Around election campaigns you will get party political advertising, but I cannot ever recall anyone having the resources to run television advertising campaigns on a single issue. There will be a lot of disappointment, Madam Speaker, if members of this Assembly - - -

Mr Humphries: You could ban advertising, couldn't you? That is right; ban advertising.

Mr Cornwell: Yes, why don't you ban them? Is that your response?

MR CONNOLLY: No, no; that is what you are proposing to do with your how-to-vote card policy.

MADAM SPEAKER: Order!

MR CONNOLLY: A lot of people around Australia will be watching what this Assembly does, and they will be very disappointed if members of this Assembly are not prepared to seize the initiative on this important public health measure.

MR DE DOMENICO (4.23): Madam Speaker, what this debate is all about is whether we ban cigarette smoking the right way and the sensible way or, conversely, whether we do it the Berry way. Mr Berry has said that he is "on a winner". He said, "Let us get some legislation that puts me on a winner. Let us do it quickly, without talking to anybody, because we have not had too many wins lately. There have not been too many wins lately, so let us have a winner". This was going to be the one that really saw Wayne get re-elected.

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How wrong he is. Let us see why he is wrong. I am sure to get interjections, but let us try to limit ourselves to logical argument. This is a Bill to prohibit smoking in enclosed public places at such times and under such conditions as are determined by the Minister - namely, Mr Berry - and advised by a notice published in the *Gazette*. The first thing is that there is total control by the Minister. Mr Connolly stood up and said, "Should something we may debate next week get up, then such a declaration by the Minister will be disallowable". But it will be two or three months - and Mr Connolly knows that - before anything like that can be done.

The next point I make is this: Who in their right mind is going to accept something as determined by Mr Berry? Mr Berry has very little credibility. I am not the only one saying that. One needs to listen to what the Transport Workers Union has to say from time to time. One needs to listen to what the other unions, the doctors, the nurses and the bus drivers all have to say.

Mr Connolly: Yes, listen to what the doctors have to say on this issue. What did Dr Hurwitz say on this issue?

MR DE DOMENICO: Once again we hear from Daniel Boone at the back. Put the hat on the mouth and give somebody else a go; you have had your chance. Let us have a look at the fines. There is a \$500 fine for smokers. For the occupier of premises there is a \$5,000 fine for a body corporate and a \$1,000 fine for a person. Compare that with possession of marijuana. If you smoke a marijuana cigarette the fine is \$100.

Mr Connolly: Mrs Carnell thinks it should be even less. That is what she said at the Young Liberals forum.

MR DE DOMENICO: Just listen. This is logic, Mr Connolly. You are the lawyer; I have not had any legal training. If you are caught smoking a marijuana joint the fine is \$100. If you are smoking tobacco, it is \$500.

Mr Berry: No; wrong!

MR DE DOMENICO: Mr Berry says, "Wrong". Clause 3 of your Bill, Mr Berry, says:

... cigarettes, cigars or any other product a substantial ingredient of which is tobacco.

Is that right? So, if I am smoking a marijuana joint at the Hyatt Hotel, I am fined \$100 under the law. Under Mr Berry's legislation - - -

Mr Kaine: You probably will not be fined at all; that will be okay.

MR DE DOMENICO: But just say that I am caught, Mr Kaine. I can be fined - - -

Mr Cornwell: For having a quiet cigarette in the middle of the foyer of the Hyatt Hotel?

MR DE DOMENICO: At the Hyatt Hotel. If it is a marijuana cigarette, the fine is \$100.

Mr Cornwell: And in come the smoke police.

MR DE DOMENICO: And in come the smoke police. It will be a \$500 fine for me for smoking tobacco. Guess how much Samir Harmouche at the Hyatt is going to be fined. He will be fined \$5,000 for a tobacco cigarette. There will be a \$5,000 fine for the owner of the premises.

Mr Connolly: How much is he going to be fined if he sells cigarettes to a minor?

MR DE DOMENICO: It is \$5,000 if I am caught smoking tobacco. I have not bought my cigarettes there. I will take on board that interjection from the eminent Attorney-General. I might not even have bought my tobacco cigarette on Mr Harmouche's premises, Mr Connolly. However, I buy cigarettes legally. If you really want to ban smoking, let us ban the whole lot.

Mr Berry: We are not banning smoking.

MR DE DOMENICO: You are. You are banning smoking. "We are not going to ban smoking", he is saying. Of course you are. You are going to ban smoking in restaurants, are you not?

Mrs Carnell: And in bars.

MR DE DOMENICO: And in the bars, but not in clubs - maybe not in clubs - and not in the casino. Passive smoking in casinos is all right for your health; passive smoking in restaurants is not. That is what Mr Berry's Bill says, for heaven's sake. Mr Berry, you are wrong again. Madam Speaker, there is no phase-in period unless the Minister so chooses. There is definitely too much power for the Minister in this legislation. There is excessive ministerial discretion.

Someone in this Government has said, "The most important issue that I am going to deal with is jobs. I am concerned about jobs, particularly for young people". Mr Berry had the opportunity of bringing the whole of the industry and the whole of this Assembly along with him on this issue. He chose not to. He chose this adversarial way of doing things. But had he taken the opportunity of consulting the community he would have known that industry in the ACT - the tourism industry, in particular - employs a lot of young people. What the industry would have said to Mr Berry, and what I am sure the industry did say to Mr Berry, is, "Please give us a chance to get our act together. We need some time to make plans". Business operates that way. You need some lead time. The industry would have said, "Then we will take whatever - - -

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

SMOKE-FREE AREAS (ENCLOSED PUBLIC PLACES) BILL 1993

Debate resumed.

MR DE DOMENICO: Had Mr Berry listened to industry he would have heard it say, "We need time. We agree. Let us try to ban smoking outright in a phased-in way over a three-year period, if there are no adequate extraction systems and air changing systems". Mrs Carnell and Mr Moore quite adequately covered that area. Once again, Mr Berry should take advice from his people, because they are the ones who told Mr Moore what the rules and regulations were regarding environmental protection in the United States and here as well.

Let us also have a look at tourism potential. It is a fact that a lot of foreign tourists, especially Asians and people from the Middle East as well, enjoy a cigarette. Whether you agree with smoking or not, that is a fact of life. No wonder Mr Berry has not decided to ban smoking in the casino.

Mrs Carnell: What about Chinese restaurants?

MR DE DOMENICO: That is another point, Mrs Carnell. Mr Berry has quite openly said that the casino will be exempt from these sorts of rules and regulations. Why is that? I stress again that passive smoking is bad for you. We all agree that it is bad for you, whether you inhale tobacco smoke in a casino, in a club, in a bar or in a restaurant. To target a particular section of the industry does not make any sense whatsoever.

Hopefully, Mr Berry will do something very shortly to make sure that smoking will not be allowed on ACTION buses. Whether there are passengers on the buses or not, one hopes that any government that is committed to this sort of thing will make sure that ACTION bus drivers do not smoke. We will see what happens there. We will also assume that Mr Berry or someone will attempt to gazette the whole precinct of the new Assembly building, including balconies, as a place where you cannot smoke. That is really the crux of the matter. Let us see how fair dinkum this Government is. Madam Speaker, I think Mr Humphries really hit the nail on the head. This was the issue that was going to make Wayne look really good in the electorate. God knows he needs something. He really needs something, so he said, "Let us do it. Let us do it quickly. Draft me some legislation".

Quite obviously, the legislation is flawed. The legislation does not make sense. The arguments presented by the Minister and others make no logical sense whatsoever. You are going to hear the members of the Opposition say time and time again that there are two ways of doing things. There is the way that sensible people do things, and there is the way that Mr Berry and some of his colleagues do things. We have proved time and time again, as we did especially in the last session in 1993, that if you do things in a sensible way, by consultation, by talking to people, by letting people know exactly what you want to do and by listening, usually there is a way around every problem. There is a way around this problem. I think Ms Szuty's proposed motion is the best way to deal with this problem. Let us put this Bill to a standing committee of this Assembly and let us have a look at the legislation line by line, clause by clause. Let us listen to all the interested players, who by the way could have been behind Mr Berry holus-bolus had he taken the time to do it properly, to do it sensibly, and not in his usual way.

MR CORNWELL (4.34): Madam Speaker, I must admit that this legislation worries me greatly. It is not just the Bill on its own but an indication of a general drift here in the ACT that I find extremely concerning. In my opinion, there is an indication that various freedoms are being put at risk in this city.

Ms Follett: Freedom to drive on the right, freedom to kill people!

MR CORNWELL: It is interesting that the Chief Minister interjects, because I would imagine that some of the socially progressive legislation that is being introduced from time to time in this Assembly would concern her as much as it concerns me. It certainly concerns a lot of people out there in the community who believe that this Assembly should be addressing far more important issues than in fact we are. However, Mr Berry, to his credit, is on record as being an anti-smoker, unlike me, now a non-smoker. I draw a distinction between the two. Nevertheless, as my colleagues have pointed out, a considerable number of double standards are being applied in this legislation. There are aspects of it that, I have to say, I find quite repugnant. I do not like, for example, the idea of inspectors being appointed to enforce the law, because I think that under - - -

Mr Berry: It is all right for liquor licensing, though.

MR CORNWELL: I would like to see just how the legislation is going to be applied, Mr Berry, because I do not particularly want some tourist in the Hyatt to be bailed up by one of your inspectors about whether he or she is smoking in the right place or not. I do not think that would do much at all for the tourist industry. If there is not to be a double standard, why do you not do the right thing and ban cigarettes?

Mr Berry: No.

MR CORNWELL: No, you will not do that, will you? Ban tobacco, my friend. No; we do not want to do away with the excise that comes in from tobacco any more than we would like to threaten - - -

Mr Connolly: This speech could come straight from the Tobacco Institute - this talk of personal freedoms - - -

MR CORNWELL: I will come to you in a minute. We do not want to lose tobacco excise any more than we would like to threaten the amount of money that will come into the Territory through the casino. Therefore, we will not ban smoking in the casino. A fistful of dollars from there is of far more importance than any principle that you might have in relation to smoking.

Mr De Domenico: Forget about the local restaurant owner.

MR CORNWELL: We will make a distinction with the casino, just as we will make a distinction with the club in Tuggeranong; but we will not worry about the local restaurant owner, as Mr De Domenico properly interjects. It would appear to me from some of Mr Connolly's comments that he would dearly have liked to ban those advertisements on the television. Goodness knows, he whinged enough about them, did he not? I find it worrying that people can be thinking along these lines.

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The *Canberra Times* cartoon which recently featured prominently in this building is not too far from the truth in the minds of a great many people in this city who believe in freedom of choice, who believe in civil liberties, who believe in a capacity to think for themselves, Mr Connolly; who are not impressed by fanatics, who are not impressed by zealots who, having achieved a position where they are representing the community, seek not to follow the views of the community but rather to follow their own narrow agendas. I think this is something that we have to watch very carefully. We all have a responsibility to represent the people who put us here and not, I repeat, our own particular interests.

Mr Berry interjected on numbers of my colleagues about who was in whose pocket. Let me repeat: Why, Mr Berry, have you exempted the casino from this particular piece of legislation? Whose pocket are you in, or whose pocket is your Labor Government in? Hello, there is silence from the Government benches.

Mr Berry: It is boredom; that is all.

MR CORNWELL: I do not know. I think you are probably trying to work out how you are going to weasel out of it when it comes your turn to respond.

Mr Berry: You should have read the introductory speech, and you would have seen what was going to happen.

MR CORNWELL: Mr Berry, I am not interested in your speeches. I am interested in what is here in the legislation. Unfortunately, your speeches, my friend, are not the law. It is what is in this legislation that represents the law. I do not believe that even Mr Connolly would stand up in court and try to defend something because Mr Berry said that it was so in his tabling speech. If it is not in this wretched little five-page piece of legislation, then I put it to you that it simply does not have any basis in law in this Territory, irrespective of what you might like to say in your presentation speech. That is a nonsense argument.

I do not say that referring the legislation to a committee will satisfy all of my concerns. In fact, I doubt whether all of my concerns about this matter will ever be satisfied. I am genuinely of a mind that the smokers in this Territory are definitely being discriminated against. But, of course, as we have gone through history things have changed back and forth. These days there are laws to prevent discrimination on the grounds of race, colour and creed which 30 or 40 years ago did not exist. Now that the pendulum has swung we are having a go at smokers. In 30 or 40 years' time I suppose it will be something else.

There are many targets that you could have a look at, I suppose. It has always puzzled me, for example, Madam Speaker, why we do not take some action against the road toll. You can go out and buy a car with a speedometer that shows speeds up to 200 kilometres an hour. Nobody can drive at 200 kilometres an hour in Australia on any road, I would suggest to you. So one wonders -

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Mr Lamont: That is wrong.

MR CORNWELL: You can attempt to, Mr Lamont, but I would be very careful.

Mr Lamont: Go to the Northern Territory. There are no speed limits there.

MR CORNWELL: Very well, but I do not think I am going to try to do 200 kilometres an hour. What I am saying, Madam Speaker, is that there are inconsistencies. They abound, and that is one example. I have not yet seen any attempt by any government, Federal or State, to cut back the maximum speed shown on speedometers in motor vehicles. We continually whinge about the death toll and the injury toll on the roads, yet we do nothing. We do not even take a simple step like this to try to control death and injury on our roads.

As I say, I do not believe that the referral to a committee is necessarily going to solve all of my problems. However, I believe that the question of the level of ventilation does need to be examined by a committee away from this bear pit of debate. Mr Berry claims that there is no safe ventilation level. I do not know how he reconciles that statement with the ventilation that has been put in at the casino, but that might be something that the committee would like to address. They can speak to Mr Berry; they can speak to the casino; they can speak to ventilation engineers; and they can see who is right and who is wrong.

I would like the committee to pursue this selective choice of where smoking is going to be banned and where it is not. Like numbers of people on this side who are using sheer commonsense in this matter, I find it very difficult to imagine that smoking is somehow terribly dangerous in restaurants but is not terribly dangerous in a bar or a tavern. I find this a strange inconsistency. We may in fact have made some major medical breakthrough by discovering that if you smoke in a restaurant you are likely to end up with cancer; however, if you smoke in a bar you will not. Maybe the *Lancet* or the *British Medical Journal* will be able to benefit - - -

Mr Kaine: The alcohol probably breaks down the smoke!

MR CORNWELL: As I say, we may have made some great medical breakthrough. Let us pursue this. After all, we are here to represent the people. We are here to do the best we can on behalf of our constituents, but in this case we may in fact assist people elsewhere in this country. There are problems with health issues, I accept. I accept that it cuts both ways. There was something in the *Canberra Times* this morning which indicated that smokers apparently suffer less stress in some cases. I notice that the Chief Minister is nodding agreement. She obviously read the article.

Ms Follett: So do those around them.

MR CORNWELL: I found that an interesting point. It may be explored by the committee. I do not think that we should just dismiss the health issues as being entirely one-sided. Therefore, Madam Speaker, I believe that there is every justification for this Assembly to refer this matter to a committee, so that the issues that we have properly raised can be investigated and the inconsistencies of the Government's legislation can be properly explored and examined.

MR STEVENSON (4.45): What the Bill seeks to do has been discussed in quite some detail. Mr Berry has made it quite clear that he seeks to ban cigarette smoking in many enclosed public spaces, using a graduated approach over a period of time, though he is not saying a specific time. I want to look briefly at the case for and the case against, as presented to me by many organisations and individuals who have been good enough to take time to see me, phone me or send me letters or faxes.

Mr Wood: The main issue is health.

MR STEVENSON: I think, as Mr Wood mentions, the main issue for the people who agree with the Bill is health. It is to do with passive smoking. The argument is that, if you go to a restaurant that allows smoking and you do not want to smoke, your health could be impaired. Other members have raised not only the question of passive smoking. Mr Moore mentioned active smoking. Though someone may decide to smoke and to inhale the smoke, it still is not a good thing to do as it ends up in a lot of costs for society in general. He said that a ban in many enclosed areas would discourage that practice. There is no doubt that it would. It would help reduce smoking. Those people who believe in market forces or in a situation where people are free to choose would say that the Bill discriminates. For a start, it discriminates against a legal practice, namely, smoking tobacco; and, interestingly, it does not discriminate against an illegal practice, namely, smoking marijuana, as Mr De Domenico mentioned.

The question has been asked: If the Government wants to do something about health problems and smoking, why do they not ban smoking in total, not just smoking in enclosed places? In addition, why are they banning smoking only in some public places and not in others? The argument was again put, I believe by Mr De Domenico, that if you wanted to start at the worst end of the passive smoking problem in enclosed public places you would go to where most of it occurs. But the statements by the Minister support the other viewpoint - that you start at the better end.

Those people who support a total ban would suggest that, even if it is not a matter of health in enclosed places, it is a matter of comfort. You may not feel that it is unhealthy, but you cannot sit there and enjoy a meal or enjoy a leisurely time if you have to breathe in someone else's smoke. Some say that a non-smoking environment also enhances your taste and smell, so you enjoy your meal better. Those people who support freedom of choice say that if you do not want to eat in a smoking area you should go to an establishment that does not allow smoking or that allows a choice.

This brings us to the question of ventilation. Some people support a ban. Some specialists have contacted me. One from Washington said that there is no practical way of ventilating a restaurant or an enclosed area. I think all of us would agree that there is technology available and that you could do it, but what we are talking about here is cost and whether or not it is practical. The suggestion is that there are so many dangerous chemicals and dangerous fumes within smoke that you simply could not get all of them out, even if you could get some out. Those people who support freedom of choice or who are against a total ban would disagree with that. They would say that there are many restaurants that have already spent large sums of money on adequate ventilation and that some have installed negative ion generators to handle some of the particulate matter in the air. The people who support the total ban say that there is no safe level of smoke at all.

Those people who are against the ban talk about costs. Mr De Domenico presented the case quite well. The Minister is saying that there will be no ban in the casino or that there will be no ban in areas where we know there is a great deal of smoking - clubs, hotels and so on; that from a practical viewpoint, people would really be happy with that at this time and any ban needs to be introduced

on a gradient. Such a course acknowledges that there is an economic question here. People in the hospitality industry say that it is a question of economics; that many businesses would suffer if they had to do away with smoking immediately or if, as the Liberal Party may suggest, they had to put in ventilation of a certain standard. Some say that this would discriminate against some types of business and not other types and against businesses of a certain size and not others. It is indeed hard to divide a restaurant with half-a-dozen tables into smoking and non-smoking; it is hard to the extent that it would be impossible.

The people for a ban say that we should adopt a legislative approach and that the Government should take a responsible attitude and ban smoking, to make sure that people are looked after. Those with the other view say that they agree with self-regulation, not legislation - unless it is absolutely necessary. They say that in the case of smoking there is no evidence that legislation is necessary, because the hospitality industry is moving towards a no-smoking environment. Indeed, the Australian Hotels Association said:

The industry is committed to a Code of Practice which provides for adequate ventilation and designated smoking and non-smoking areas where possible.

Those people who are for a ban say, "There is no need to wait any longer. We have had enough time. This debate, not only in the ACT but throughout Australia, has been going on hot and heavy for a long time. Let us get on with it. Let us ban smoking straightaway". The other viewpoint is that there certainly has not been enough time, given imposts on businesses and restaurants; that if this ban were suddenly brought in without long advance notice they would be severely hard done by. Even though there is no other ban in Australia, people for the ban say that the ACT can lead the way. Those people opposing the outright ban would say, "Yes, but it is the wrong way".

We have both sides stating that the majority of people support their view. I will now look at those surveys. A national household survey done in 1993 was sent along to me by the ACT Alcohol and Drug Service. There are a couple of problems with the survey technique. There are a number of sets of questions listed. In respect of all but one set the person doing the survey is advised to "read out and rotate" the questions so as not to get any bias.

Mr De Domenico: Like a Robson rotation.

MR STEVENSON: Yes. There is one set of questions for which that is not recommended, and that is the one to do with banning smoking. It reads:

Looking at Card 5, to what extent would you support or oppose the following?

The five choices are "strongly support", "support", "neither", "oppose" and "strongly oppose". The first question is:

Stricter enforcement of the law against supplying cigarettes to customers who are under age.

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I think we would all agree that the vast majority of people would support that. Then it asks about banning smoking in workplaces. According to this survey, more people support that than support a ban in restaurants, which is a question that comes later. A very good case could be put that it would have been fairer if this particular survey had rotated these questions, to avoid any bias. Apart from that, the survey was quite good. It gave a good range of questions to ask and, because it was a household survey, there was a fair sampling. The result of that survey was about 70 per cent for. The Australian Hotels Association said that another survey showed 83 per cent support for choice. The question in that survey was:

Do you believe hotel and restaurant patrons should be offered the choice of whether they sit in a smoking or non-smoking area?

Once again, the number of people contacted - 200 adult Canberra residents - was quite reasonable. That is enough in a place the size of Canberra. The survey was done by telephone interview.

With face-to-face interviews in someone's home and telephone interviews, there are some problems with privacy. Firstly, if you have made a telephone call, obviously you have the person's phone number and name, and it is very easy to get their address because it is beside their name in the phone book. When you go to someone's house, once again obviously you have the person's name and you know exactly where they live. Some people may be concerned that if someone comes to their door or rings their phone and they say something that may be unpopular, or that they think might be unpopular, there may be some record made of that. Whether there is or not is not the point; it is whether or not it allows any bias.

This is the reason why we use surveys around shopping areas. We survey not just the people who are shopping. People can be there for a number of reasons. Everybody, apart from invalids who cannot go out of the house, goes along to shopping centres, passes through them or goes to entertainment centres within them. We conducted a survey over three days - 19, 20 and 21 February. It is important to note why we left it fairly late. There is a fairly obvious reason. We wanted to leave it to the last practical time, to make sure that people had heard the debate fully. When legislation or a proposed change is close, the debate increases, so people have a better opportunity to make a decision.

We selected Civic, Dickson and Woden. Quite often in Civic we survey outside the Canberra Centre, but we did not do that in this case. I thank a former staff member of the Australian Bureau of Statistics for reminding me of the fact that the Canberra Centre, of course, does not allow smoking inside. While the Belconnen Mall does not ban it, it has signs up saying "No smoking". For those reasons, we left those areas out. We were in Civic, but we moved away from the Canberra Centre. Woden and Dickson did not have that potential for bias. We asked a total of 879 people whether they were smokers or non-smokers. We had 627 non-smokers, 249 smokers and three people who did not say. Some people said "occasionally" or "not cigarettes but other things" or whatever. The persons surveyed were asked to select a preference from three alternatives dealing with the subject of smoking in two categories of public areas - restaurants and clubs. The alternatives given were identical for both restaurants and clubs.

The survey questions regarding a total ban in various areas and freedom of choice were reasonable questions. (*Extension of time granted*) Thank you, members. If you ask only one question you can get a predictable result. But there was a third question that was not asked, and that was about maintaining the status quo, with the owner making the decision to declare an establishment non-smoking, to allow smoking or to segregate areas in some way. Let me give you the exact questions. The instruction was:

Tick one box only in each section.

The question read:

Should smoking in restaurants -

and there were five choices -

be restricted to a 'smoking' area, with a 'non-smoking' area also required by law?

be determined, one way or the other, by the restaurant owner?

be banned by law?

Mr Moore: Did you rotate the questions?

MR STEVENSON: Mr Moore asks me whether we rotated the questions. The answer is yes, we did, although it makes it much more difficult to count. We also gave two other options.

Mr Lamont: A sequential rotation or a random rotation?

MR STEVENSON: It was a random rotation. The two other options were "Not enough information to make a decision" and "Not concerned about the issue". That is better than simply asking, "Are you an idiot?" or giving an option to say, "Don't know". It gives people an opportunity to express a reasonable viewpoint.

As I said, the exact same questions were asked in respect of clubs. As well as asking, "Should smoking in restaurants" and giving the five choices, we asked, "Should smoking in clubs" and gave the same five choices. Then we asked, "Are you a smoker?", to be answered yes or no. Respondents were also invited to write comments on the back. Some interesting comments indeed were written on the back.

Mr Lamont: Can I seek to have you table those responses?

MR STEVENSON: Mr Lamont asks whether he can seek to have me table those responses. They are only brief and I will be happy to do that.

Mr Lamont: No; the stuff on the back.

MR STEVENSON: Oh, those responses. Let us have a look at what the actual results were. Forty-five per cent favoured the designation of separate smoking areas in restaurants - and I did use the term "by law".

Mr Wood: Did you point out that that is not always effective?

MR STEVENSON: Mr Wood asks whether I pointed out that that would not be very effective. The answer is no. When we survey we do not educate people. There were 37 per cent in favour of a ban on smoking in restaurants, and there were 14 per cent in favour of the restaurant owner determining whether or not smoking should be allowed and, if so, to what degree. I want to thank the people who helped in the survey over those three days and the many people who answered the survey questions. We actually do not ask those questions in person because people may be influenced by voice inflections or intimidated by a person standing in front of them looking at them.

Mr Lamont: You fronted me two years ago, and that did not worry you then.

MR STEVENSON: Mr Lamont said that I fronted him a couple of years ago, and I did not mind intimidating him then. I did that deliberately. With anybody else, I give them the form; but I saw Mr Lamont and I thought differently. If you phone somebody up, voice inflection can introduce a bias. If you ask somebody the questions, voice inflections, body language and all sorts of things can introduce a bias. We started off like that some years ago, but now we simply ask somebody whether they are from Canberra and make sure THAT they are 18 or over. We then give them a clipboard and a pen, and they can fill in their responses in their own time. They are not hassled by time.

Mr Humphries: Did they wear badges saying who they were?

MR STEVENSON: I always wear a badge. I think someone should always wear a smile when they go out surveying. We did not have any signs up, other than signs like "Have your say" or "Something can be done".

Mr Humphries: Not "Abolish Self Government Coalition"?

MR STEVENSON: No, we did not have that. We did at one time, but we cut that out. We do not do that any more. We select the people we survey. That is very important, because if you do not select them you often get an unconscious bias on the part of the person doing the survey. They tend to ask people like themselves or people who look like them. There is that tendency. I saw it many years ago when I was involved in the area. We basically grab anyone, and we go out of our way to get people that might be looked upon as minorities, et cetera.

Obviously, I will vote against the legislation. If legislation were introduced not to ban smoking in certain areas but to allow a choice within restaurants and so on, I would vote for it. I understand that, for small restaurants, cafes, coffee lounges, et cetera, it is far more difficult to cater for choice. That is something that would have to be looked at. On this matter, I ask members to vote for the people of Canberra - whose majority decision is not to ban smoking outright but to allow for smoking and non-smoking areas - and to vote against this banning Bill.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (5.08), in reply: One of the first mistakes that I made in relation to this legislation was to take Mrs Carnell at face value. On 29 January 1992 the ABC interviewed Mrs Carnell on the subject of smoking. The interviewer said:

You realise, Kate Carnell, that if you do become Minister -

a vain hope -

we will be ringing you very quickly to find out when the legislation is going to come before the house.

Mrs Carnell said:

Well, as you know, we felt very strongly about it even when we were in government. The voluntary code was an appropriate first step just to see how it went. It hasn't gone as well as we'd like -

as I said it would not -

so the obvious next step, as I think we even made the point at the time, was to move into legislation; so for us it is just a logical progression.

The interviewer said:

And you won't be bothered by the tobacco lobby or the restaurateur saying "You are going to destroy our businesses"?

"Not much", she should have said. She went on to say:

Look - honestly, Julie - people's health is substantially more important. People can still go outside and smoke as they have to when they come to have dinner at my place, so I don't think that stops people smoking if that's what they choose to do; but it is your right and my right to breathe clean air and it's also people's right to go outside and smoke and I think that's the way we should leave it.

She started off by saying, "Honestly, Julie". Come on! She went on to say that this legislation gives the Minister absolute power. That has been debunked. It is nonsense. It will put the responsibility on you - that is what will happen - and you will have to accept that responsibility if this legislation passes, because there will be an option for members to amend it or to reject it.

Mr Moore: After two to three months.

MR BERRY: Mr Moore chimes in with, "After two or three months". I can tell you, Mr Moore, that it would be quicker than that. But you are embarrassed too. I see Mr Humphries grinning over there. I will not worry about the web of deception that he tried to spin. I do not have time for that. Mr Moore, though, deserves a little time. Mr Moore, of course, is embarrassed. I think that if we had been a little kinder to some of Mr Moore's policies we would have done better on this one. I smell an element of tit for tat.

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Mr Moore: I raise a point of order, Madam Speaker. The conduct of the Minister is highly disorderly. I refer to standing order 55. Given the Minister's earlier performance and the tone of his speech so far, it is important that he understand that such imputations are highly disorderly.

MADAM SPEAKER: Mr Berry, if you were intending to impute anything improper to Mr Moore, I ask you to withdraw it.

MR BERRY: All I said - Madam Speaker, I suppose we should have grown to expect it by now - was that I think that if we had been kinder to Mr Moore's proposals, then we would have got warmer support. I think that is a fair assumption; but if it offends Mr Moore I will withdraw it. I would be offended.

One other matter that needs to be raised in the debate is the discussion about the absence of any program to deal with the rest of those businesses which might be affected by the consumption of tobacco. In my presentation speech I made it very clear that this was a two-pronged approach and that all of those other places which were not caught up in the proposals which would come forward by way of regulations would be picked up under the Occupational Health and Safety Act. That was made very clear and has always been clear. For people to deny that it has been clear is to tell a big fib. There is no question about that. This measure will pick them all up over a period of time. The legislation before the chamber is meant to deal with some very important areas very quickly. Of course, a code of practice will be issued shortly. We have consulted widely with business, and my occupational health and safety advisory committee will advise me shortly on that. That code of practice will lock people into their duty of care under the Occupational Health and Safety Act.

The importance of the legislation is matched by the desperation of some of the tactics that have been used to defeat it. Defeating or delaying this Bill, whether by months or by years, will only put off the inevitable. In the meantime, more members of our community - including babies, young children, pregnant women, asthmatics and heart disease sufferers - will have no choice but to breathe other people's smoke as they go about their day-to-day activities. In recent weeks we have heard many claims about what the Smoke-free Areas (Enclosed Public Places) Bill will do. Some of the most vocal groups had decided their position before they had examined the legislation. When they looked at it, they could not find anything legitimate to protest about - because there is nothing - so they had to resort to creating half-truths and fantasy. Of course, they are the ones that hypnotise Mrs Carnell. They have her under their spell.

The silence of the tobacco industry in all of this has been nothing short of deafening. Do you know why? It is because they have a heap of people to do their dirty work. No wonder they are quiet on the subject. They have a line-up of people to do their dirty work. The industry's undoubted discomfort at marketing a product which harms not only tobacco users but also non-users must be eased by having normally reputable groups and individuals speak for the industry. Mrs Carnell was once reputable on this, and she is holding off. Mr Moore was once reputable on this too. I can see now that he is having second thoughts on the issue. Now we have the big diversion. Once he found out the big mistake that he had made - boom, boom - he decided to send the Bill off to a committee.

Madam Speaker, the smokescreen of deception that has been thrown up is intended to deflect attention from the real issues. Not once did I hear any of you talk about employees. What about the effect on employees? What are you going to do about it? Absolutely nothing.

Mrs Carnell: That is why we want to ban it everywhere.

MR BERRY: No, you do not. Mrs Carnell says that she wants to ban it, except where there is ventilation. Then what about the employees?

Mrs Carnell: If it worked, yes.

MR BERRY: What nonsense! This is purely and simply about the duty of care under the Occupational Health and Safety Act.

Mr Humphries: What about the bars in the Labor Club? What about the employees there?

MADAM SPEAKER: Order!

MR BERRY: They just babble on. Do not take any notice of them. I will just turn up the volume a bit, Madam Speaker.

Mr Wood: They have been babbling today.

MR BERRY: They are embarrassed; that is why. Purely and simply, this legislation is about the Government's public health responsibilities and the community's right to an environment free of recognised risks to health. If we were talking today about protecting people from contaminated water, industrial pollutants or drunk drivers, I doubt very much whether we would be hearing so much about freedom of choice.

Largely because of our success in ridding our air of other contaminants, the most significant indoor air pollutant for many Australians today is the lethal cocktail of toxins called environmental tobacco smoke. There is no question about that. Mrs Carnell should be hiding under her table in case some of her former health colleagues see her actions in this matter. The fact that tobacco smoke enters the environment as a result of individuals smoking rather than from, say, a factory chimney is relevant to how we tackle the problem but not whether we tackle it. I should not have to remind this Assembly that every major health and medical organisation within Australia and throughout the world agrees that environmental tobacco smoke increases the risk of ill health in non-smokers.

Mr Humphries: So do we.

Mr De Domenico: Including in bars.

MR BERRY: Why are you backing off, then? You all think you are so much smarter than these people. You all want to delay the Bill. These groups have all urged that preventative action be taken so that involuntary exposure is eliminated from public places, public transport and workplaces.

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Action became more compelling when environmental tobacco smoke received a group A classification by the US Environmental Protection Agency last year. This places ETS, environmental tobacco smoke, with a select group of substances - including benzene, radon and asbestos - which are known to cause cancer and which have no known safe exposure levels. The only recommended exposure level, of course, is zero.

Mrs Carnell: Nobody is disagreeing with you.

MR BERRY: Why do you not pass the legislation and leave it at that? We will come out with the regulations and then you can have another go. Madam Speaker, this is an important issue, as there have been calls for the Government to set a safe - - -

Mrs Carnell: If you support my amendments, I will support your legislation.

MR BERRY: You are all scurrying around now trying to find a little spot in the sun. I am sorry; the clouds have come over. This Bill reflects the fact that in most enclosed public places smoking can no longer be assumed to be the social norm. It is also appropriate that where smoking still occurs it should not be an unfettered right but should be subject to conditions.

Mrs Carnell: That is right.

MR BERRY: No. You are saying "no conditions".

Mrs Carnell: No.

MR BERRY: No. You are saying "no conditions". Driving, consuming alcohol, and handling and storing food in restaurants are all examples of activities which are subject to conditions.

Madam Speaker, before discussing the Bill I would like to point out that this is enabling legislation. A lot of people want to take a bit of the gloss off it, but it is enabling legislation. When we come to the regulations, they can have all the say they want. Action to be taken under this legislation, such as determining which types of places go smoke free, is subject to scrutiny by this Assembly.

I would now like to turn to the key clauses of the Bill. Clause 3 contains definitions used in interpreting other proposed sections of the legislation. A "public place" includes places open to sections of the public, including those where entry is by payment or by membership. It includes places such as licensed clubs, supper clubs, bridge clubs and video hire clubs. "Enclosed" includes places which are substantially enclosed. The object of the legislation, as stated in clause 4, is important, as it provides - - -

Mr Kaine: I had better go and get dinner while I am waiting.

MR BERRY: You might as well. Try a non-smoking restaurant. Clause 4 provides both the rationale for the legislation and a limitation on its scope. It is very simple. It refers to the promotion of public health by reduced exposure to environmental tobacco smoke. Any declarations and regulations made under the Act would also have this as their overall objective. Clause 5 gives the Minister the power to declare smoking to be totally or partially prohibited in specified types of enclosed public places. It allows exceptions for certain types of places that meet specified conditions.

Mrs Carnell: Like the Labor Club.

MR BERRY: The Labor Club is subject to the OH and S Act. Do not mislead people.

Mrs Carnell: So are restaurants.

MR BERRY: So, too, are restaurants.

Mrs Carnell: So we do not need the Bill.

MR BERRY: I emphasise that this declaration is to be published in the *Gazette* and is a disallowable instrument subject to scrutiny in this Assembly. I thought you were supporting the Bill. This clause in particular has been and is the subject of extensive - - -

Mrs Carnell: You are the one who just said that the OH and S Act covers it.

MR BERRY: The fact of the matter is that it has been explained that there are areas that will not be picked up in this legislation at this point but will be picked up by the occupational health and safety legislation under the duty of care provision.

Mr Cornwell: "Trust me".

MR BERRY: Yes, you can. Clause 5 has been and is the subject of extensive public consultation. Health considerations and public consultation make it likely that smoking will be prohibited in the following places: Shopping malls and places retailing goods or services, educational institutions, health care facilities, public transport vehicles, indoor sports and recreation facilities - - -

Mrs Carnell: With or without bus drivers?

MR BERRY: With bus drivers. (*Extension of time granted*) The list of such places also includes places used for displays, exhibitions and public meetings; places used for music, drama and other performances; parts of residences when used for registered commercial child-care; service queues, service counters and waiting areas; common areas of multiple unit residential and commercial premises; places licensed under the Liquor Act when used for alcohol-free events, such as under-18 discos; and restaurants, cafes, coffee lounges, dining areas and all places where the main business is the service of prepared food to be consumed on or off the premises.

In some places where there is more smoking, moving to non-smoking will take more time, and it is therefore not practical to move at the same pace for all types of places. For this reason, we are proposing not to prohibit smoking in places primarily for the consumption of alcohol and/or for gaming, although incidental food may be available; separately enclosed areas of public places used for private functions such as wedding receptions; and parts of multi-unit residential facilities which are not common areas, such as guests' and residents' bedrooms. If smoking is to occur in these places three conditions will have to be met. Prescribed signs must be displayed to the effect that smoking can take place. All reasonable steps - - -

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Mr Moore: What about occupational health and safety for those?

MR BERRY: You never even mentioned employees. You ought to be ashamed of yourself, Michael. All reasonable - - -

Mr Moore: I did, and discussed it with you.

MR BERRY: Yes, because you have been caught out. All reasonable steps must be taken to prevent tobacco smoke from entering smoking-prohibited areas, and reasonable steps must be taken to discourage persons under the age of 18 from entering smoking-prohibited areas. Madam Speaker, whether smoking is banned or not in enclosed public places, employers will be expected to fulfil their obligations under the Occupational Health and Safety Act. This obligation includes the new code of practice on passive smoking in the workplace which is being developed following public consultation.

Mr Moore: We will trust you on that one, too!

MR BERRY: You can, Michael, and people know that. Clause 6 gives the Minister the power to appoint persons as inspectors and to direct inspectors to perform such duties as the Minister determines for the purpose of promoting compliance. I emphasise this last phrase, as it goes to the heart of what inspectors are all about. Perhaps "inspectors" is a misleading term, but other Territory legislation calls public servants "inspectors" where they are appointed to implement legislation. We do not hear sensational stories about other inspectors with references to "the litter police", "the food police" or "the occupational health and safety police"; yet some sections of the business community seem intent on promoting stories about "the smoke police". It tells you where they are coming from.

Having someone available on the end of the telephone to advise proprietors, to answer questions about the law and to be available to request that people stop smoking hardly constitutes a 24-hour vigilante force - something which is being promoted by Mrs Carnell in weaving her web of deception - and no amount of ludicrous scare tactics, Mrs Carnell, will make it otherwise.

Clause 7 outlines what inspectors have the power to do. They do not have the power to issue on-the-spot fines. They can ask a person to stop smoking and, if the person does not stop, they can ask for the person's name and address in order to take further action if necessary. Clause 8 says how smoking is to be restricted - that is, smoking must not occur in a place where it is prohibited or in a manner contrary to specified conditions. A person who smokes in a smoking-prohibited place must stop smoking at the direction of an inspector or an occupier, unless he or she has a reasonable excuse. That is fair enough. In other words, if you light up in a smoke-free area, you must stop when asked to do so; if you do not, you must have a reasonable excuse. That is fair. It is hardly the stuff of social upheaval and the end of civilisation as we know it, contrary to claims by the supporters of Mrs Carnell in their advertising.

Clause 9 sets out what an occupier must do. He or she must display the necessary signs and must take reasonable steps to avoid smoking occurring in a non-smoking place. Again, these are pretty basic requirements that are no different from those which most proprietors are already familiar with in regard to other public health obligations. Clause 9 also provides two defences for an

occupier - that he or she was not aware that smoking was taking place, or that he or she had taken reasonable steps to stop the person smoking. That is all straightforward. It means showing the person the no-smoking signs, reminding him or her of the law and asking the person to stop smoking. I would like to add that the penalties specified for breaches of clauses 8 and 9 are consistent with those for similar offences in other Territory legislation, although - and I have to remind you about this - - -

Mrs Carnell: What is a similar offence to smoking a cigarette?

MR BERRY: Selling cigarettes to an under-age person. Clause 10 of the Bill says that individuals must cooperate with inspectors. It is good not to arrest people. We are not like Mr Humphries, who wants to give the police power to arrest at any time. He would lock the little ones up. Clause 10 of the Bill says that individuals must cooperate with inspectors, unless they have a reasonable excuse for not doing so.

Clause 11 makes it clear that, although we are not prohibiting smoking in some places, people do not have an absolute right to smoke. The proprietors can still ban smoking in those places. Clause 12 gives the Executive the power to make regulations to carry out or give effect to the Act and, of course, you can have your lash at that at any time. Do not try to mislead the community on that issue. The major issue to be dealt with initially by the regulations will be signage, for which minimum standards will be set. The clear, conspicuous and sufficient display of signs is the key to ensuring that the legislation is self-enforcing. Consultation with numerous and diverse groups throughout the community has indicated strong support for appropriate signage, and the Government intends to make an initial supply of signs available. The regulations will also allow for existing signs which are clear and effective to be approved.

Madam Speaker, this is a Bill that cannot be wished away by stalling tactics or by denial or referral to a committee. This Bill should pass into law and then we should get on with the regulations. There is no excuse for delaying it.

Mr Stevenson: Madam Speaker, I seek leave to table the survey results that I referred to in my speech.

Leave granted.

MADAM SPEAKER: The question is: That the Bill be agreed to in principle. Those of that opinion say aye; to the contrary, no. The ayes have it.

Mr Stevenson: I call for a division, Madam Speaker.

MADAM SPEAKER: There is no need for a division. Your dissent will be noted if yours is the only dissentient voice. Your dissent is noted.

Question resolved in the affirmative.

Bill agreed to in principle.

23 February 1994

MS SZUTY (5.30): Pursuant to standing order 174, I move:

That the Smoke-free Areas (Enclosed Public Places) Bill 1993 be referred to the Standing Committee on Conservation, Heritage and Environment for inquiry and report by 21 April 1994.

Earlier in the debate Mr Moore suggested that using standing order 174 to refer a Bill to a standing committee of the Assembly for inquiry and report is a normal parliamentary practice and procedure. It is open to any member of the Assembly to move for such a referral at any time. This Assembly has not been noted for pursuing this course of action on many occasions, but there are occasions when this course of action is considered to be appropriate. I think that this particular legislation is a very appropriate piece of legislation to be referred to a committee. Members will note that the Conservation, Heritage and Environment Committee is to report to the Assembly by 21 April 1994. That is two months away. This referral will hardly delay the introduction of the legislation by any great amount of time.

I would like to respond to some of the comments that Mr Connolly made earlier in the debate this afternoon. He implied that members on this side of the chamber were retreating from their opposition to smoking in enclosed public places. That is simply not the case. We have just agreed to this legislation in principle by 16 votes to one. Mr Connolly also implied that members on this side of the chamber oppose the legislation. Of course, that is absolutely ridiculous. He also seemed to imply - - -

MADAM SPEAKER: Ms Szuty, could you refer your comments to the motion that the Bill go to a committee. We do not want to go into the debate about the Bill again.

MS SZUTY: Madam Speaker, I have no difficulty whatever with the idea that enclosed public places should be smoke free, as I have supported the Bill in principle. I understand that many people in the community passionately believe that enclosed public places should be smoke free on health and environmental grounds. I also understand that, in environments where smoking is allowed, adverse and potentially adverse consequences are especially felt by children, pregnant women, elderly people and people who have health problems, particularly asthma, as Mr Berry mentioned in his closing remarks on the Bill.

It is also important to acknowledge that the Government's legislation to establish smoke-free areas in enclosed public places is landmark legislation - the first of its kind in Australia, although similar legislation exists in other parts of the world. The enabling legislation, as Mr Berry has described it, enables the Minister for Health, Mr Berry, to determine by declaration, as Mrs Carnell has said, which enclosed public spaces will be smoke free, which enclosed public spaces will be smoke free at certain times or in certain circumstances and which enclosed public spaces will be exempt under certain conditions.

The Minister is all powerful and sets the agenda under this legislation. The Assembly has a secondary role in being able to overturn the Minister's decisions by moving and passing disallowance motions as the need arises. The Minister knows that there are many members of the Assembly who have stated that they are unhappy with this approach. Should this legislation be passed this afternoon, non-Government members would be placed in the

unenviable position of having to proceed with change, if that was considered necessary, by overturning the Minister's decisions. Such overturning of decisions causes confusion and chaos in the community and, I believe, would do nothing to enhance the Minister's objectives of creating smoke-free environments in enclosed public places.

My preferred approach to this issue, Madam Speaker, is to refer this Bill to the Assembly's Standing Committee on Conservation, Heritage and Environment, chaired by my colleague Mr Moore. This approach, to me, has many advantages. The inquiry process will enable all views on this issue to be heard - not only those of non-smokers and smokers passionate about the issue and the Australian Hotels Association, which is fearful of ramifications further down the line, but all views, including those of representatives from the Restaurant and Catering Association, the tourism industry and health groups and professionals, including the ACT Cancer Society and the Australian Medical Association.

Members of the Conservation, Heritage and Environment Committee will be able to thoroughly assess the effectiveness or otherwise of air-conditioning and ventilation systems, the desirability or otherwise of a phased-in approach to this legislation affecting all enclosed public places, as advocated by Mrs Carnell, and the most effective methods and means of implementing the Government's objectives. They will be able to address the civil liberties arguments advocated by smokers and the predictions of poor and improved trading outcomes by various sectors of the hospitality industry. They will be able to adequately assess the overseas evidence of the impact of smoke-free enclosed public places and report back to this Assembly on their findings.

I have a number of questions as to how this legislation would be implemented in its current form. How is it decided whether an enclosed public place is substantially enclosed? What role do windows which can be opened and roofs which can be opened have? What do restaurant proprietors do in the middle of the afternoon or late at night when their only two remaining customers wish to have a cigarette? How will the Government make clear its expectations with regard to smoke-free restaurants when the proprietors and staff are unable to speak English? How will officers of ACT Health go about promoting compliance with the proposed legislation? I am sure that the Minister for Health will have answers ready in response to these and other questions which may be asked, but that is not really the point.

The point is that I believe that the Assembly wants to ensure that the general community understands these issues, can accept and respect the concept of smoke-free enclosed public places and feels comfortable about the changes which are likely to occur. It is my assessment at the moment that the general community does not fully understand the issues and the consequences of this legislation. On Saturday, 29 January, in the *Canberra Times* public notices section ACT Health made the following request:

Comments are now sought concerning the declarations and regulations to be issued pursuant to sections 5 and 12 of the Bill.

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As Mr Berry identified, these concern the declarations at clause 5 and the regulations at clause 12. The notice went on to state:

These will relate to matters including: which types of places will be non-smoking; what conditions will apply where smoking is permitted; what signage requirements will apply where smoking is and is not permitted.

In particular, the views of managers, staff and users of the following types of places are sought: places where goods or services are sold or delivered; restaurants, cafes and coffee lounges; places licensed under the *Liquor Act* whose primary business is not the sale of food, particularly where those premises are shared with other types of facilities; hotels, motels and serviced apartments offering overnight accommodation; remand centres, nursing homes, hostels and other multi-unit residential facilities; educational and instructional institutions; businesses which cater for private functions; indoor recreation and entertainment facilities; places whose major clientele is under the age of 18 years; exhibition or display areas open to the public; places used for commercial child care; places used for music, drama and other performances; public transport facilities.

A request was made that comments be received by Monday, 14 February 1994 - just over a two-week timeframe. As of Wednesday of last week, following the closing date for the receipt of submissions, 10 only had been received from that vast array of organisations which the Minister requested consultation with. This does not appear to me to be full community consultation with all those groups and organisations likely to be affected by the implementation of this legislation.

Madam Speaker, the Government and the Minister for Health will no doubt argue that referring this Bill to an Assembly committee will unnecessarily delay the introduction of the legislation. In fact, the Minister has already argued that way. However, we need to remember, as I said earlier in my remarks, that the referral of a Bill to an Assembly committee is a normal parliamentary process which occurs in other jurisdictions in Australia generally more frequently than it occurs here. There have been occasions in the past when this Assembly has decided to refer legislation to Assembly committees, the Adoption Bill being a case in point. Our standing orders enable Bills to be referred to Assembly committees following the in-principle debate, as I said at the beginning of my remarks. This is precisely what I am doing now in moving this motion. I trust that the Assembly will decide to refer the Smoke-free Areas (Enclosed Public Places) Bill 1993 to the Conservation, Heritage and Environment Committee, which will enable appropriate community consultation, discussion and debate to take place on what is, as I have said earlier, landmark legislation for the ACT and for Australia. If we are to pursue the issue of establishing smoke-free areas in enclosed public places more extensively in the future, it seems to me to be important that we enable full community discussion and debate at the beginning of the process. We are then best placed to take further appropriate action in the future. I commend the motion to the Assembly.

In closing, Madam Speaker, I would like to refer to the implication by Mr Connolly earlier in the debate that members of this chamber considered their position on the basis of the Australian Hotels Association TV campaign. I would like to say to Assembly members that I had not even seen such advertisements before I came to my position on this legislation. I certainly resent the implication that my decision would be based on an advertising campaign that the Australian Hotels Association might have run on TV.

MR STEVENSON (5.41): It has been mentioned that the public may not be fully aware of the issue. That is always a situation that may occur. Of course, it is the responsibility of this Assembly, of this Government, to make sure that people are aware of all aspects of the issue - not just one side, which is all too often the case. I think many times members forget that they should present the full evidence, not just evidence that favours the particular viewpoints that they promote or support. That is something that we should keep in mind in future. I think a lot of people feel that there should be education before legislation; in other words, see what can be done by gaining agreement rather than by using a regulatory approach.

On the question of referring the Bill to a committee, I understand that my vote will probably make the difference. If I do not vote to refer the Bill to a committee, it will be passed. From that point of view, I will vote to refer it to a committee. I see some benefit in some of the points that Ms Szuty mentioned. However, speaking on behalf of a majority of Canberrans, I feel that the Bill should be defeated and that we should start again.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (5.43): I have to say that Ms Szuty's effort was one of her most feeble in relation to the public consultation issue.

Mr De Domenico: But that is what you say every time she disagrees with you.

MR BERRY: No. It was a feeble attempt on the issue of consultation. She referred to an advertisement in the paper this year, but Ms Szuty knows that it was an election commitment by Labor at the last election to ban smoking in enclosed public places. Such a ban has been the subject of much public interest by way of media comment on the issue over the last couple of years. There have been major articles in the *Canberra Times*, in particular in February 1993, indicating the Government's intention to commence action. There has also been a lot of activity in industry about the issue. Active consultation commenced from that date with meetings between me and various peak industry groups, including the Restaurant and Catering Association, the Australian Hotels Association, the shopping centre owners, the Licensed Clubs Association, tourism groups and peak business groups.

On 6 October 1993 the ACT Government released a discussion paper which elicited over 100 responses, many representing major groups within the community. There was overwhelming support for smoke-free environments, with submissions running over five to one in favour. The Smoke-free Areas (Enclosed Public Places) Bill was introduced into the Assembly in December 1993 and has continued community debate. There was no interest from any of you until this Bill was due on the notice paper. Where were you?

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Mr Moore: Our role is to let you do that and then get it at this stage.

MR BERRY: We will get to your role. I am pleased that the Bill is going to a committee rather than being defeated. At first I suspected that there might be some support for the silly notion that Mrs Carnell put forward in relation to this legislation.

Mrs Carnell: It still might be defeated.

MR BERRY: I doubt it. That argument will be seen through for what it is. There has been a lot of agitation in the community because of the performance of the Independents and the Liberals on this issue. They have been hurt politically on this score - and no wonder. Their behaviour has been abominable. They were all over the place.

Mr Humphries: I raise a point of order, Madam Speaker. You ruled that Ms Szuty should not stray into the substantive questions of this legislation. We are now debating the referral to a committee. With respect, that is not what Mr Berry is talking about.

MADAM SPEAKER: Mr Berry, please confine the debate to the motion to refer the Bill to the committee.

MR BERRY: I understand what he is saying. I am perfectly clear on the subject. Everybody has to find their little spot in the sun on this issue. At the end of the day, if we come through the committee process with legislation that does something in the Territory, then the introduction of the legislation will have achieved something. We do not know what yet, but it will have achieved something. That is fine. People in this place will be able to take credit for their part in it. Mr Stevenson has a view that there is a glimmer of hope that he might be able to knock the legislation off so that he can satisfy the views expressed in his poll. Mr Stevenson argues for choice.

Mr Stevenson: I do not argue that.

MR BERRY: Mr Stevenson represents the view that there ought to be choice. Of course, 70 per cent of the people said that they wanted a choice of smoke-free areas. We can interpret these things any way we like, can we not?

Mr Stevenson: Not at all. How about doing it truthfully?

MR BERRY: I would say that that is one interpretation. Madam Speaker, at the end of the day the committee will look at the Bill and will come up with something better than is happening now - I trust. Some people here will have recovered their lost ground over their behaviour on this issue, but some never will. I am looking forward to the matter going through the committee process as quickly as it can. In the meantime, as I have said, members will see the Government's code of practice on smoking in workplaces, which will begin to have an immediate effect in all of these areas. The committee will be looking at this legislation, but we are concerned about employees in the workplace. There is already legislation in place to deal with the workplace, and it will be dealt with.

MS SZUTY (5.49), in reply: In closing this debate, I would like to acknowledge what the Minister has said about community consultation on this issue. He also mentioned Labor's election commitment in 1992, the public interest in the issue in articles in the *Canberra Times*, meetings held with various peak industry groups, a discussion paper that was issued and legislation tabled in December 1993. That is all very commendable; but, when we go to the stage of looking at which enclosed public places we will make smoke free and which will have certain conditions and exemptions applied to them and what regulations will be drawn up, we are talking about very specific instances.

A great range of facilities, institutions and buildings in the ACT will be potentially affected. When I read through the list of facilities that ACT Health had targeted for a response on this legislation, I imagined that there would have been hundreds of buildings and facilities covered by that advertisement. If I were in the Minister's position, I would be quite concerned about receiving only 10 responses. That represents a fairly low level of community consultation on the issue. I do not agree with Mr Berry's assessment that there has been full community discussion and debate on this issue. I am sure that the Conservation, Heritage and Environment Committee, chaired by Mr Moore, will explore the issues very thoroughly and, as the Minister expects, come back with better legislation for this Assembly.

Question put:

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

The Assembly voted -

AYES, 9

NOES, 8

Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr De Domenico	Ms Ellis
Mr Humphries	Ms Follett
Mr Kaine	Mrs Grassby
Mr Moore	Mr Lamont
Mr Stevenson	Ms McRae
Ms Szuty	Mr Wood
Mr Westende	

Question so resolved in the affirmative.

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ADJOURNMENT

Motion (by Mr Berry) proposed:

That the Assembly do now adjourn.

Hospitals

MR KAINÉ (5.52): Madam Speaker, I hope that members will not mind if I delay them a little, but I feel a Ros Kelly coming on. I apparently made a statement earlier today that was incorrect, and I think that I should set the record straight before we go. This occurred, Madam Speaker, during the debate when Mr Berry was outlining his theory of the highly efficient hospital - which is that the fewer beds you have, the more efficient it becomes. I got carried away a bit and I made some comment to the effect that there were 3,000 people on the waiting list. I have since been informed that, in fact, I was quite wrong. The number is, in fact, 3,688. I just wanted to correct the record. It makes me feel good to be able to do that. It makes me feel particularly good, because I am not one of the 3,688 people on the waiting list.

I was cogitating on the Berry theory that a reducing number of beds makes a hospital more efficient and setting that off against the fact that our waiting list is increasing. I produced the model of the Berry efficient hospital system. I will have this blown up and distributed so that people can see it. It shows that, on the model of the reducing bed concept of hospitals, some time in 1999 we will have zero beds in our public hospital system; but at the time that we hit that optimal efficiency point the waiting list will have increased to around 21,000. I cannot state with precision on which day in 1999 this will occur, but it will be some time in 1999. Once we hit that optimal point where there are no beds and 21,000 people on the waiting list, the waiting list will then begin to increase exponentially. By some day in 1999, one in 15 of the ACT population will be on the waiting list to get into our hospital system which has no beds in it.

I thought that this was a highly illuminating model. I would like to table it for incorporation in the *Hansard*, but I do not think I will go that far. I might just put out a media release. But I will certainly make sure that the Minister has a copy of this model of the Berry efficient hospital system. He can put it on the wall and then he will know that some time in 1999 we will reach this optimal position.

Hospitals

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (5.54), in reply: One could not let that sort of foolishness go by without a response. It is truly foolishness. It shows the sort of concern that the people opposite have for our very high-quality public hospital system. There is no question that there are fewer beds in the ACT than there once were, and it is true that there will be fewer and that the average length of stay will fall. The doctor friends of the Liberals opposite have been the cause of a lot of the waiting lists, and not only because of their recent strike. Waiting lists are often used as a political measure within the health field; that is true.

Mr Humphries: You used them all the time when you were in opposition, Wayne.

MR BERRY: I am talking about the health professions. They use them too. You cannot look at those measures by themselves; you have to look at throughput. Save for the losses of efficiency that were caused by the doctors strike, we will be putting through a number of people in the ACT which is consistent with the size of the place. We have no fewer difficulties than they have in other places.

Mr Kaine did not know about this when he was the Chief Minister. His Minister for Health, Mr Humphries, did not know either, so could not tell him. Mr Humphries, when asked questions about what was going on in health, said, "I am not going to devote resources to finding out". So Trevor never knew what was going on in the hospitals before he was thrown out. I am pleased that, even though his perception of the health system is wrong, he at least now has a perception. That is much more than he had before.

Question resolved in the affirmative.

Assembly adjourned at 5.57 pm