DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

12 April 1994

Tuesday, 12 April 1994

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

MINISTER FOR SPORT
Suspension of Standing and Temporary Orders

Motion (by **Mr Humphries**) agreed to, with the concurrence of an absolute majority:

That so much of the standing and temporary orders be suspended as would prevent:

(1) Mrs Carnell moving a motion of no confidence in Mr Berry forthwith; and

(2) members speaking to that motion without time limits.

Motion of Want of Confidence

MRS CARNELL (Leader of the Opposition) (2.32): I move:

That this Assembly lacks confidence in Minister Berry by reason of his deliberate or reckless misleading of the Assembly concerning matters relating to the ACTTAB's contract with VITAB Ltd.

When a Minister misleads a parliament, it is the duty of the Opposition to bring him or her to account. When a Minister repeatedly misleads the house and conceals essential information, it is our duty to act immediately. To deliberately, systematically and repeatedly mislead members over five months, as Mr Berry has done, is totally unconscionable.

The agreement signed by ACTTAB with VITAB is now the subject of an inquiry, following the enormous pressure applied by the Opposition and other concerned groups; but an inquiry will examine only the VITAB deal, how it impacted upon ACTTAB's contract with the Victorian TAB, and other associated matters. It will not examine whether Mr Berry misled the Assembly. The only body that can determine this is the Assembly itself. The Minister has gone out of his way to misrepresent the true picture from the very day the Opposition began to ask questions about the VITAB contract.

He has engaged in a deliberate campaign of misinformation. The Opposition will show today, beyond all reasonable doubt, that when Mr Berry misled this Assembly he knew, or at the very least should have known, exactly what he was doing. We will produce documentary evidence to support our claims.

Mr Berry deliberately concealed vital information about the ACT's expulsion from the superpool - a decision that could ultimately cost this Government and the people of Canberra millions of dollars. The Minister attempted to use a letter from VITAB as categorical evidence that it would not give inducements to attract Australian punters. This letter is deceptive and not even worth the paper it is written on, as we will demonstrate shortly. Mr Berry also said that ACTTAB won the VITAB contract in cutthroat competition with other States. It did not. He said that VITAB's directors were Dan Kolomanski, Con McMahon and Michael Dowd. They were not and are not. He said that VITAB was a public company and was Australian owned and registered. It was not and is not. He said that the bona fides of the VITAB directors and shareholders had been checked thoroughly. They were not and, if they had been, the ACT should never have signed this contract.

Mr Berry did not stop at misleading the Assembly. He also broke the law - a law he introduced himself. Under rules he set, Mr Berry was required to table the ministerial direction he gave the TAB board to sign the agreement with VITAB. He did not table it and he still has not. All this was part of a deliberate campaign to create the impression that the agreement with VITAB was safe and good for the Territory, when he knew perfectly well that it was not.

Madam Speaker, ACTTAB has been linked for a number of years to a betting pool controlled by Victoria. This pool is Australia's largest, worth more than $4 billion a year. We are linked to a pool to give punters access to better returns and better odds. If the Territory's TAB were ever forced to go it alone, there would be no incentive for medium to large punters to stay with our TAB. These punters, who make up 10 per cent or more of ACTTAB's $90m turnover, would leave in droves. Mr Berry himself told the Assembly on 3 March this year:

That is of great advantage to Australian punters and to TABs because large betting pools draw more punters.

On 31 January this year the Victorian TAB wrote to ACTTAB and terminated the agreement which gave ACTTAB access to the superpool. This was a serious blow to the ACT. What caused Victoria to expel ACTTAB from the lucrative superpool? Victorian sports Minister Tom Reynolds told the *Canberra Times* on 17 March that the primary reason was the VITAB contract. Mr Reynolds also said that the dropping of ACTTAB had absolutely nothing to do with the privatisation of the Victorian TAB. In fact, the decision to privatise was taken after ACTTAB was notified that its link to the superpool would finish at the end of July. The fact is that the ACT was kicked out of the superpool because of the VITAB contract.

After receiving VicTAB's letter at the end of January, the first action that any competent Minister would have taken was to contact the New South Wales TAB and seek access to its betting pool. We know what New South Wales thought of this approach from the ACT. That State's racing Minister, Chris Downey, said on 16 March that the ACT had been told that it was "unlikely that the New South Wales TAB would recommend any arrangement involving VITAB to its Minister". Mr Berry walked into the Assembly day after day during February and March armed with all of this information, yet he chose to conceal it. Not only did he conceal it, but he also consistently told the Assembly that the arrangement with VITAB was safe and that it was going well.

Mr Berry deliberately misled this Assembly and the people of Canberra by failing to disclose, as he should have done, that this supposedly good deal with VITAB had placed the economic future of the TAB and our racing industry in jeopardy. Consider the Minister's comments to the Assembly this year - and remember that when he made these statements he knew that the agreement with the Victorian superpool would be severed and that New South Wales would not allow ACTTAB access to its pool while the VITAB contract was in place. Mr Berry said on 1 March:

It is safe for the ACT and it returns a profit, so that is good news on both scores.

He said on the same day:

The deal that was offered to us was profitable for the Territory, and is profitable for the Territory ... and it is going very well.

The very next day he told the Assembly:

What has happened is that the ACT Labor Government has struck a good deal ...

He went on to say:

We know a good deal when we see one. What we also did, and what I personally was involved in, was to make sure that the deal was safe with respect to the Territory.

Yet all along Mr Berry knew that this great deal he was promoting had caused ACTTAB to be dumped from the superpool. What he has not told the Assembly is that this good deal, as he calls it, has an escape clause for VITAB but no escape clause for the ACT Government. This means that, if ACTTAB cannot gain access to another betting pool, VITAB may have grounds to sue the ACT for megabucks. Great deal, Mr Berry!

The Minister has blamed VicTAB for doing a backflip on the VITAB contract. The fact is that there were several meetings between the Victorian TAB, ACTTAB and, on at least one occasion, representatives from VITAB. At these meetings the proposed relationship between the three agencies was discussed, but our information is that the Victorian TAB never gave the ACT written approval to go ahead with their contract with VITAB.

In fact, VicTAB has indicated to ACTTAB that they had a number of issues which still needed clarification. Surely ACTTAB would have obtained VicTAB's written approval before signing the contract with VITAB. Not to have done so would have shown the ACT Government to be, at best, naive and, at worst, incompetent.

Mr Berry knew full well that ACTTAB's dumping from the superpool was totally relevant to questions the Opposition asked him in February and March. It was information that members of this Assembly and Canberrans had every right to know, and the Minister deliberately concealed it. He concealed it for no other reason than that it would have cast doubt on the wisdom of ACTTAB's deal with VITAB - a deal for which he has taken personal responsibility. Mr Berry will continue to claim that he did not inform the Assembly because he was still trying to negotiate with VicTAB to change its mind or that the Victorian Government had to provide reasons for the termination of the superpool link. He is wrong. Under the superpool agreement, either VicTAB or ACTTAB only have to provide six months' notice to terminate their arrangement. No reasons have to be given. So the letter sent by VicTAB on 31 January was non-negotiable, and it was made clear to the ACT that this was the case within days of the termination notice being given. When he stood up in the Assembly in late February and early March, Mr Berry knew that there was no going back with Victoria. The VITAB deal had landed us in serious trouble, but he made sure that we were never told. Indeed, the information came to light only on 15 March, six weeks after VicTAB's notice came through.

This Minister has misled the Assembly on just about every aspect of the VITAB arrangement, right from who competed for the contract and who owns and operates VITAB, through to whether the ACT really knew whom it was dealing with. Mr Berry told the Assembly time and time again that other Australian TABs competed with ACTTAB for the VITAB deal. Mr Berry wanted us to think that ACTTAB won the contract with VITAB because it was better than other TABs, more aggressive and more businesslike.

Mr Humphries: More gullible.

MRS CARNELL: Yes, more gullible. Consider what he told the Assembly over the last five months. On 23 November last year, two weeks after announcing the VITAB deal, Mr Berry said:

Many other governments would love to have got their hands on this one.

On 8 December he said:

... and of course there is some envy amongst some of the TABs that they did not get it.

On 2 March this year Mr Berry said:

If we had not taken it up somebody else would have it.

The very next day he told the Assembly, with more than a little pride in his voice:

There is a lot of jealousy out there about this good deal that the ACT has done. The money is going to be in the bag in the ACT. Other places, other States, had the opportunity to look at this Vanuatu deal and the ACT got the jump on them. Of course, there is a lot of jealousy about this issue, but the ACT has the money in the bag and I expect that some people are stinging.

That is at page 482 of *Hansard.* Mr Berry misled the Assembly on every one of these occasions. ACTTAB's only competition for a deal with VITAB was itself. It competed with itself. And it was not hard to check. We wrote to every other Australian TAB and asked them a fairly simple question. We asked them whether they had either been approached by VITAB or submitted a proposal to VITAB. With the exception of Queensland, no other TAB in Australia was even approached.

The Queensland TAB told VITAB, and I quote from the letter we got back from them:

... due to legislative restraints we were not in a position to consider offshore links with other organisations.

QTAB did not submit a proposal and sent VITAB packing. Madam Speaker, I seek leave to table copies of the letters we received from TABs around Australia, which will show categorically that the Minister misled this Assembly.

Leave granted.

MRS CARNELL: It is interesting to note that the only two States or Territories that were approached by VITAB were the two with Labor governments. If the Opposition could so easily check this fact, then surely the Minister should have known all along that his TAB was out there all on its own. The fact is that ACTTAB was singled out and targeted by a group of very smart operators. What of the envy that Mr Berry claims existed amongst other TABs? It was not envy but widespread concern about the implications of the VITAB deal for Australian TABs and the racing industry.

But this Minister did not stop trying to snow the Assembly then. I come back to his well-worn statement that the ACT's deal with VITAB was safe because it was thoroughly checked by Treasury and the Law Office. On 1 March, amongst many other times, Mr Berry told the Assembly:

... it has been checked out here in the ACT by Treasury and by the Law Office, and already we are receiving the benefits.

All that the Law Office was asked to do was to satisfy itself about the appropriateness of the contract as a legal document. Mr Berry tried to imply that the deal itself was approved by the Government Solicitor. All that the Treasury was asked to do was to ensure that the contract did not leave the ACT Government financially exposed. Neither government agency was asked to examine the implications of the deal itself or the bona fides of the parties involved.

So, was VITAB checked out at all? Yes, said the Minister. On 1 March Mr Berry told the Assembly:

The bona fides have been checked by Price Waterhouse, an internationally registered company.

On 2 March he said:

The Price Waterhouse matter was arranged in terms of looking at the bona fides of the people ...

On the same day he also said:

Price Waterhouse, as I said yesterday, are an internationally recognised company and they were to look at the bona fides of the people involved in the company. My advice is that they did.

Madam Speaker, the fact is that Price Waterhouse Vanuatu were never asked to check the directors or shareholders of VITAB. They were never asked to check the bona fides of these people. So, were the bona fides of VITAB's directors and shareholders actually scrutinised, as the Minister led this Assembly to believe? Back on 22 July 1993, before the VITAB deal was signed, ACTTAB recommended to the Minister in a briefing paper that:

... the Minister set in place an appropriate investigation process of VITAB Corporation, its shareholders and directors, to report as soon as possible.

This briefing note was approved by the Minister. What did Mr Berry do? To quote him again in the Assembly on 22 February:

In early September 1993 ACTTAB requested Price Waterhouse to conduct a company check of VITAB, and I am advised that the results of this check were satisfactory.

A few minutes later he continued, saying to Mr De Domenico:

I say to you, as much as it might cause your little bowels to knot, that in early September 1993 ACTTAB requested Price Waterhouse to conduct a company check of VITAB, and I am advised that the results of this check were satisfactory.

On 2 March the Minister went so far as to get his officers to check on what sort of search Price Waterhouse had done. Mr Berry received a handwritten note late in question time and he read it out. It said:

ACTTAB asked for Price Waterhouse to do the job. A general company search was asked for.

Note the critical words in each of these statements, that is, "company search". It was misleading for the Minister to suggest that a company search would establish the bona fides of any person involved in VITAB. Everyone knows, except Mr Berry, it seems, that a company search tells you almost nothing about the individuals involved in a corporation. A general company search in Vanuatu, such as the one purported to have been done by Price Waterhouse, gives the names of directors, who can be either individuals or companies. If it is an exempt company under Vanuatu law, a search will not even tell you who the directors or shareholders are. That is because Vanuatu discourages people from checking too closely any companies that are set up in one of the world's best known tax havens. A Department of Foreign Affairs briefing paper says that Vanuatu's status as a tax haven became widely recognised in 1970. The briefing paper states:

In addition to the absence of income, corporate, capital gains, withholding, inheritance taxes and capital account and foreign exchange controls, Vanuatu law protects all offshore account holders with secrecy provisions.

A company search in Vanuatu would not tell you that one of the people who negotiated the deal with ACTTAB, Peter Bartholomew, was convicted in 1981 and 1982 in Victoria on charges of conducting a place used for gaming and use of premises for betting. Mr Bartholomew took part in negotiations with ACTTAB on behalf of VITAB in July 1993 at ACTTAB's headquarters in Dickson. Just 12 months earlier, and only five miles down the road, he was arrested in the Hyatt Hotel in company with one of Australia's most notorious SP bookmakers, Alan Tripp, his brother-in-law.

Surely alarm bells would have rung for Mr Berry had he bothered to check this man's background. In fact, Bartholomew and Tripp were arrested together in Victoria on a number of occasions. The activities of the pair attracted several references in the Costigan royal commission's final report. If this Minister had done his homework, he would have learnt that the person who initially approached the Queensland TAB on behalf of VITAB was none other than Peter Bartholomew. All he had to do was ring the Queensland TAB and ask. So while he does not appear on any company records, Mr Bartholomew was actively involved in negotiations on behalf of VITAB, and he was therefore relevant to a check of its bona fides.

If this was not bad enough, one of the directors of VITAB and a signatory to the contract with ACTTAB, Cornelius McMahon, was charged in 1988 in Victoria with "suffer betting" and "keep control of premises for the use of betting". Cornelius McMahon, who signed the contract, according to a recent *Sydney Morning Herald* article is also a mate of Alan Tripp's. This association goes back to at least 1985. If the Minister had followed up on ACTTAB's recommendation last July, he would have known that his TAB had done a deal with people associated with SP bookmaking. Yet Mr Berry tried to create the impression that the bona fides of VITAB had been checked and checked again and were totally satisfactory. Some company search, Minister!

When this company search of VITAB was conducted by Price Waterhouse in September last year, what did it find? Mr Berry told the Assembly on 7 December, that is, after Price Waterhouse supposedly carried out this company check:

The directors of VITAB are Dan Kolomanski, Con McMahon and Michael Dowd. It is a public company, and Tony De Domenico can do a search through the ASC company records, if he wants to confirm that.

The Minister was given a chance to correct this information when he was asked a question about the accuracy of his response on 9 December. Unfortunately, he refused to answer the question. So we certainly gave him a chance. Yet on 3 March, many months later, Mr Berry repeated his claim. I quote Mr Berry:

On 7 December I advised the Assembly, and I have just been sent another note from my staff, that the directors of VITAB were Kolomanski, McMahon and Dowd at the time of signing.

The facts are that the directors of VITAB, when the company was registered on 4 August last year and when the contract with ACTTAB was signed, were Daniel Kolomanski, Cornelius McMahon and a company called Oak Ltd, not Michael Dowd. To confirm that the Minister misled the Assembly, the Opposition conducted two company checks of VITAB - one in February and the other yesterday. There has been no change to the directors since VITAB was registered on 4 August 1993.

Madam Speaker, I seek leave to table a company search of Vanuatu government records, which was carried out on 11 April, and a statement from the company that executed that search.

Leave granted.

MRS CARNELL: Proof, Mr Berry, that you misled the Assembly in December last year and in March this year. Even more damning is this fact: When Price Waterhouse conducted the company search, it also found that the directors of VITAB were Kolomanski, McMahon and Oak Ltd. They did not find Michael Dowd's name anywhere on any document, either. Yet Mr Berry persisted by telling the Assembly that Dowd was a director. Minister, what do you have to hide?

Mr Berry has tried to create the impression that VITAB's details were easily accessible, that it was a public company registered in Australia, and that Tony De Domenico could do a search of Australian Securities Commission documents at any time he liked. The facts are that VITAB is a private company. VITAB is registered in Vanuatu, a tax haven, where information is difficult, if not impossible, to obtain, by legislation. Mr De Domenico would end up a very old and no wiser man if he spent the rest of his life searching the Australian Securities Commission records for details of VITAB, because the search would be in vain.

Nowhere has Mr Berry misled the Assembly more often than on the issue of whether VITAB would give inducements to encourage Australian punters to use its operation rather than onshore Australian TABs. On 23 November, Mr Berry admitted in the Assembly:

... the agreement is silent on the issue of inducements ... Members should appreciate that the offering of inducements to investors is purely a commercial decision and TABs, like any other business, are not legally precluded from using such methods to attract business.

This statement would indicate that VITAB is at liberty to give inducements, that is, rebates, to punters to bet through their system rather than with another TAB. Remember that VITAB has a gross profit margin of more than 10 per cent of its turnover to play with, compared with as little as 2.5 per cent for onshore Australian TABs.

The Minister certainly knew that inducements could be a problem before VITAB even began operations on 18 January. A meeting of Australian TAB executives, including ACTTAB, was convened in Sydney on 6 December to discuss this very issue. On 8 December, Mr Berry told the Assembly of the outcome of the meeting. He said:

... the potential for the payment of inducements to Australian punters through ... offshore arrangements was recognised ...

VITAB sent a letter about inducements to ACTTAB on 23 November - a letter which Mr Berry has used constantly over the last five months, both here and in the media, in an attempt to misrepresent the true position. VITAB in this letter states:

1. VITAB will not at any time be knowingly seeking the business of Australian resident customers by way of rebates, any other inducements or any other similar means.

2. VITAB will not at any time be knowingly seeking the business of Australian resident customers by means of advertising or promoting its betting activities.

On 1 March, Mr Berry told the Assembly in relation to this letter:

VITAB have given an undertaking that they will not offer inducements to Australian residents. They will not offer inducements. They have given an undertaking and they have also said that they want a statement from people to say that they are not ACT residents.

On 2 March he said:

I am the one who has been given the undertaking by VITAB that they will not offer inducements to ACT bettors and, therefore, it will not happen.

On 3 March Mr Berry said:

VITAB have given a clear undertaking that they will not be offering inducements in Australia.

Madam Speaker, the Liberal Party has obtained two independent legal opinions, which I seek leave to table, that show that VITAB's letter is legally unenforceable.

Leave granted.

MRS CARNELL: The fact is that Mr Berry has used this letter to mislead the Assembly, and he has knowingly done so. The Minister has consistently claimed that the VITAB deal was scrutinised by his law officers. It would be hard to believe, therefore, that he has not sought a legal opinion on this particular VITAB letter. The Minister deserves to lack the confidence of this Assembly for systematically misleading its members.

But it gets worse. When Mr Berry introduced a Bill to decorporatise ACTTAB in May last year, he said in his introduction speech in relation to the legislation:

It requires the responsible Minister to table in the Legislative Assembly any directions that are given to the board. That is accountability for you. This provision will ensure that all directions - every direction, every one of them - are open to scrutiny by the elected representatives of the people of the ACT ... This is about accountability.

He also said:

This change will strengthen ACTTAB's accountability to the Government and, through it, to the people of the ACT.

Section 7 of the Betting (Totalizator Administration) Act 1964 states that the functions of ACTTAB's board are, among other things:

... with the written approval of the Minister, to provide other services relating to betting.

Under this requirement, the Minister was obliged to give written approval for the ACTTAB board to sign the contract with VITAB. Subclause 9(3) of the Betting Act requires:

The Minister shall cause particulars of any direction to be tabled in the Legislative Assembly within 7 sitting days of its being given.

The Minister has never tabled this direction he gave to the ACTTAB board, so I will do it for him today. I seek leave to table a copy of the direction signed by Mr Berry on 22 October 1993.

Leave granted.

MRS CARNELL: By ignoring the very rules he put into the Betting Act to make ACTTAB more accountable, the Minister not only has withheld information from the Assembly but has broken the law as well. This is the same man who told us almost 12 months ago that this provision would ensure that every ministerial direction would be open to public scrutiny by the Assembly. So much for accountability on the Minister's part.

Mr Berry has systematically and wilfully misled this Assembly over several months. In his own words, this VITAB deal was one that he was personally involved in.

Mr Humphries: And proud of.

MRS CARNELL: And proud of, yes. It was Mr Berry who wrote to ACTTAB and gave his approval for the signing of the agreement with VITAB. He cannot blame the Victorian TAB, ACTTAB's board or its executives, the Office of Sport and Recreation, his staff, or even VITAB for concealing and misrepresenting vital information from this Assembly and the people of Canberra. Wayne Berry must take responsibility for his own actions.

Madam Speaker, the facts speak for themselves. If we are to uphold even minimum standards of ministerial accountability in this Assembly, it is beyond doubt that Mr Berry has not met them. The inquiry by Professor Pearce will determine other issues relating to this whole sorry affair, but it will not examine whether this Minister misled the Assembly. Minister, you got taken for a ride, and then you tried to take the members of this Assembly for a ride. You have, beyond a shadow of a doubt, concealed information from this Assembly and misled its members. A member who misleads this chamber deliberately or recklessly, as you have done, is not fit to be a Minister. For this reason alone, today should be your last as a Minister.

MR DE DOMENICO (3.08): Madam Speaker, if the Liberal Party had not proceeded with this motion of no confidence today, we would have abrogated our responsibility as elected members of this Assembly. Mr Moore's comments, as reported in last Saturday's *Canberra Times*, are correct. If any member of this Assembly believes that he or she has a strong case that a Minister has misled the Assembly but, more importantly, has misled the people of the ACT, that member would not be performing his or her duty if no action at all was taken. Misleading this Assembly and the people of the ACT is a separate issue, as Mrs Carnell has said, from the terms of reference of Professor Pearce's inquiry. It is an issue that involves government and ministerial accountability and, if left alone, this Assembly would be washing its hands of its raison d'etre. The Liberal Party and, thankfully, the Independents will not do a Pontius Pilate.

From the very first time the Deputy Chief Minister made any public statement on ACTTAB's contractual arrangements with VITAB, he misled the people of the ACT. At 11.00 am on Monday, 8 November 1993, when Mr Berry delivered his speech on the VITAB deal, he said:

VITAB Ltd successfully gained a licence to operate totalisator betting facilities in Vanuatu a few months ago and has since been engaged in negotiation with a number of Australian TABs to provide the necessary computer technology and operational support.

He also said:

... it is VITAB which is providing the capital and bearing the business risks, not ACTTAB or the ACT Government.

Once Mr Berry locked himself into those two statements, there was no turning back. The trail of misleading and deception started and continued beyond Ms Follett's decision finally to accede to an inquiry. If Mr Berry had done his job properly, he would have, or ought to have, known what everybody else knows - that ACTTAB competed against nobody. In fact, as Mrs Carnell said, only two TABs were approached - coincidentally, the two in ALP jurisdictions: Queensland, who told VITAB, literally on the spot, that it could not deal with it, and ACTTAB, who came in hook, line and sinker, because the Minister directed ACTTAB to do the deal.

On face value, one could initially have some sympathy for the Minister's enthusiasm for such a statement. After all, on the same day in Canberra, 8 November 1993, the same statement was made by none other than the Hon. Bob Hawke - a shareholder, so people say, along with Dan Kolomanski - who said at the launch:

ACTTAB was selected by VITAB over a number of other Australian TABs.

He went on to refer to the various reasons. How ironic that yesterday the same Mr Hawke accused Mr Conrad Black of lying - really, the pot calling the kettle black. How proud Mr Berry must have been at being selected by VITAB. How very proud he was.

To reinforce this major coup, Mr Berry's office requested the department to prepare a ministerial statement on the ACTTAB-VITAB agreement so that Mr Berry could tell the Assembly and the rest of the world about this deal, and probably to follow the legal requirement for Mr Berry to table any direction given to ACTTAB within seven sitting days. The statement was duly prepared and approved by Mr Berry on 22 November 1993, but - surprise, surprise - Mr Berry did not make the statement to the Assembly. I now seek leave to table the statement and Mr Berry's signed approval of it and to have that incorporated in *Hansard*.

Leave granted.

Document incorporated at Appendix 1.

MR DE DOMENICO: The third paragraph of Mr Berry's statement, approved by Mr Berry, states:

ACTTAB competed against several other ... TABs to provide the necessary computer facilities and operational support to VITAB and was chosen as the preferred provider ...

Why did Mr Berry not make that statement to the Assembly? Did he know then that the statement was misleading? If so, did he do anything about it? Did he ring the other TABs and ask whether they were invited to tender? What was Mr Berry trying to hide by blacking out two sections of his approval letter, obtained under FOI? At this point, we need to go back to Mr Berry's introduction speech of 20 May 1993, when the Assembly debated and subsequently passed the Betting (Totalizator Administration) (Amendment) Bill 1993. These are the words that will haunt Mr Berry until he turns blue in the face:

This change will strengthen ACTTAB's accountability to the Government and, through it, to the people of the ACT.

In relation to the legislation, he said:

It requires the responsible Minister to table in the Legislative Assembly any directions that are given to the board. This is accountability for you. This provision will ensure that all directions - every direction, every one of them - are open to scrutiny by the elected representatives of the people of the ACT ... This is about accountability.

Why did Mr Berry not table his letter of 22 October 1993 directing ACTTAB to sign the deal with VITAB? The only way the Assembly got to know about the Minister's direction was by obtaining it through FOI, and only after Mr Berry refused to exempt the Opposition from paying for the information because he deemed that the public interest provision had not been proven. Not only did Mr Berry mislead the Assembly by not tabling his direction, Mr Berry also broke the law. I am quite sure that Mr Moore and Ms Szuty were influenced initially to support the decorporatisation of ACTTAB because of the Minister's promise to make sure that "all directions, every one of them, are open to scrutiny by the elected representatives of the people of the ACT. This is about accountability".

Let us see what else the statement said. At the bottom of page 2 it said:

Both the ACT Government Solicitor's Office and ACT Treasury examined and endorsed the agreement.

There is still no mention of Price Waterhouse. Why? After all, they were commissioned to report in September, were they not? Perhaps the most bizarre part of Mr Berry's statement was on page 3, when he said:

A less tangible benefit is the national and international recognition that will flow to ACTTAB and the Territory from the operation.

How right he was. Every national newspaper, national television stations, and the Vanuatu press have acknowledged the stupidity and naivety of this Minister's actions.

Mrs Carnell outlined the way in which Mr Berry misled the Assembly and continued to avoid answering questions during November and December. He was given an opportunity to get the record straight. He was too silly to realise that he was being given that opportunity. He continued to extol the benefits of this unfortunate arrangement. Who will ever forget the Minister's own words:

We know a good deal when we see one.

I saw a good deal and went out and grabbed it.

But the Opposition did not relent. We had to do what the Minister did not do. We checked the company, VITAB, its directors, shareholders and representatives. We noted what the Minister said in answer to questioning during February and March. He continued to extol the deal's virtues. He even criticised the Opposition for daring to ask more questions. "It is all a political stunt", Mr Berry said. "Everything is hunky-dory", he said publicly to this house. But was it? The known facts did not back up the Minister's statements, both to the Assembly and, more importantly, to the people of the ACT. On 31 January 1994, VicTAB terminated our access to the superpool. Mr Berry knew that they did and said nothing. "This is all about accountability", he said to this house. He knew that we had been chucked out of the superpool, and he said nothing.

As if saying nothing were not bad enough, he continued to mislead us all by insisting that all was okay. On 22 February Mr Berry told us that Price Waterhouse was commissioned to check the bona fides of VITAB in September 1993 and that the checks were "satisfactory". Let us try to determine what "satisfactory" means. If Price Waterhouse were asked to check only whether VITAB was a company, everything was satisfactory. VITAB was a private company registered in Vanuatu, a tax haven, with three directors - Mr Kolomanski, Mr McMahon, whose signature appears on the contract, and Oak Ltd. Mr Berry had insisted that VITAB was a public company. In *Hansard* of 7 December 1993 Mr Berry states:

It is a public company, and Tony De Domenico can do a search through the ASC company records, if he wants to confirm that.

If Price Waterhouse or ACTTAB or the Government Law Office or the Treasury or Mr Berry had done what the Liberal Party did - a proper check - they would have found that everything was not satisfactory; that it was not a good deal. Who will ever forget the rigorous checks commenced by Mr Kaine but initiated, in particular, by Ms Follett before confirming another gaming contract - for Casino Canberra? Remember the other gaming contract? Under the Casino Surveillance Authority there were overseas checks, and rightly so; the cleaners were checked, and rightly so. After all, gaming contracts should not be entered into lightly. The Chief Minister is to be congratulated for making sure that everything was satisfactory. In fact, our surveillance procedure is now being adopted in New Zealand, I am told, and in Victoria as one of the most rigorous and fair systems. Well done, Chief Minister.

Here we have, on the one hand, a gaming contract for Casino Canberra where we get up front $19m from an internationally recognised and respected company, hundreds of jobs for the ACT, and confirmed millions of dollars of revenue for the ACT Government. It gets checked thoroughly, and rightly so, and takes over a year of checks and negotiations under incredible scrutiny. Well done, Chief Minister. On the other hand, Mr Berry instructs ACTTAB to enter into another gaming contract and says that everything is okay, and he does it within four months. When the Opposition raises concerns, out comes the usual excuse and attempts to mislead - "It is a stunt"; "All is okay". That is not true. All is not okay. Mr Berry should have known that Mr Cornelius McMahon was charged in 1988 for SP bookmaking - suffering betting and keeping control of premises for the use of betting. Mr Berry knows how serious such charges are, because on 21 May 1992 Mr Berry presented a statement to the Assembly claiming:

... following the Alice Springs meeting, officers of the Office of Sport and Recreation have held preliminary discussions with the ACT Law Office with a view to ensuring that the legislation in the ACT covering the offence of SP bookmaking is effective ... The issue of illegal SP bookmaking cannot be glibly dismissed.

Mr Berry should also have known that Mr Peter Bartholomew - who Mr Berry conceded was involved in discussions as early as July 1993, before VITAB was even a registered company and before it had obtained a licence in Vanuatu, when ACTTAB agreed to confidentiality provisions - had been named in the Costigan royal commission and had been arrested on numerous occasions, the latest, to our knowledge, being in Canberra in 1992. When we brought this up, Mr Berry was heard telling this Assembly on 22 February 1994:

Mr Bartholomew has not been charged.

That is what Mr Berry said. Mr Berry, not only has Mr Bartholomew been charged with SP bookmaking offences he was also twice convicted of SP bookmaking charges in 1981 and 1982. In 1981 Mr Bartholomew was convicted for conducting a place used for gaming and in 1982 Mr Bartholomew was convicted of use of premises for betting. But Mr Berry kept saying that everything was okay. "The checks were satisfactory", he said. "I made sure of that", he also said.

In an undated press release from Mr Berry - but we believe probably on 1 or 2 March - headed "VITAB Agreement a Big Winner", Mr Berry said:

I find it extraordinary that the Opposition continues to criticise an agreement so beneficial to the community. If the Opposition have any evidence which shows it to be detrimental to the Territory, I call on them to table it immediately.

The Minister hangs himself with these words. The Minister knew on 31 January 1994 that VicTAB had expelled ACTTAB from the superpool. He had such evidence and chose to hide it from the people of the ACT, to mislead us into believing that all was hunky-dory, at least four weeks after he knew that it was detrimental. Even when the new publication, the *Canberra News*, came out, its 12 March edition had Mr Berry telling everyone how the ACTTAB had won a contract, how Treasury and the Law Office had checked and approved the deal, how Price Waterhouse had undertaken a corporate check. Mr Berry continued to mislead six weeks after he knew that the Victorian TAB had expelled us from the pool.

Finally, on the evening or afternoon of 15 March, Mr Berry could no longer conceal the truth from us all. Six weeks after the event, two weeks after he had continually told the Assembly that all was okay, he announced that Victoria had pulled the rug. What the smart money had predicted from the beginning had finally happened. Out went the press release: "Heaven forbid, we have been chucked out of the superpool". Victoria had taken action. There would be no more access to the superpool, for commercial reasons, said VicTAB. But what did Mr Berry and the chairman of the TAB, Mr Williams, say? They said that it was because of privatisation. Mr Berry misleads us again.

The Victorian Minister for Racing, Tom Reynolds, confirmed in writing that privatisation was not the reason. In fact, Victoria did not finish its privatisation plans until well after 31 January. The Victorian Minister confirmed to the *Canberra Times* that VITAB was a major reason for the Victorian decision. The New South Wales Minister, Chris Downey, also confirmed that New South Wales would not accept ACTTAB into their pool unless the ACT ditched VITAB. What did Mr Berry tell us on the Mike Cavanagh show on 2CN on Wednesday, 16 March? Mr Cavanagh said:

Mr Berry, it does seem that this has been extremely badly handled.

Mr Berry replied:

There were other State TABs interested in the operation but we were successful and won the deal for the Territory.

The cock continued to crow. Mr Berry continued:

So far as I was concerned, it was money for jam.

Mr Berry also proceeded to blame the Victorian Government, the Treasury, the Law Office, ACTTAB, and the Opposition as well. In the greatest clanger of them all, Mr Cavanagh was running out of time but Mr Berry, still not satisfied, said:

Can I just say something before I go? The survival of the ACTTAB does not depend on linking with another pool.

This Minister, in those few words, showed anybody who knows anything about gaming and TABs that he is not fit to be a Minister for anything. Just reflect on what he said to Mike Cavanagh: "It is not essential to be part of the pool for us to survive". But at the Estimates Committee, this is what Mr Berry said:

... on Thursday, 2 September ... A punter in our Erindale agency was the only winner in the linked trifecta pool and won $40,572 ... If the same punter had placed the same trifecta bet and ACTTAB trifectas were not linked to VicTAB, he would have won only $3,400. So there is an attraction to get involved in it.

There is more. On 17 March, on the Matthew Abraham show, Mr Berry said:

They discovered that the ACT was the successful tenderer.

... ...

... so my involvement has been at arm's length all the way.

He gave a signed authority, as he had to under the Act; but suddenly Mr Berry can smell a rat somewhere, and he is at arm's length all the way. Let us start blaming somebody else; let us start blaming anybody. He went on:

... I was not able to predict what the Victorian TAB would do.

There he is blaming Victoria. He also said:

The proposal was vetted.

Wayne Berry again said:

The directors were checked by Price Waterhouse.

We now know that the directors were not checked by Price Waterhouse. All Price Waterhouse did, as Mr Berry said to the Assembly, was a company check. Either he has misled the Assembly or he has misled the community, or he has done both. You cannot have it both ways.

Had Mr Berry bothered to read the agreement with Victoria he would have known that no reason had to be given for expelling us. Had he bothered to contact the Minister or the TAB, he would have known that the main reason was VITAB. Had he listened to New South Wales, he would have known that their concern was VITAB. Had he spoken to Mr Neck, he would have known that VicTAB had informed ACTTAB in the first week in February that the deal was off; that no further discussions would be entered into. That was one month before he came into this Assembly and said that everything was okay. Mr Clive Hooke, the chief executive officer of VicTAB, confirmed in writing that no reason is required to expel from the pool. They had to give no reasons at all. Mr Berry should have known that; of course he knew that.

After blaming everybody else in Australia for what had happened to him, on the Matthew Abraham show he also involved his colleague the Chief Minister when he said:

... and the Chief Minister has been briefed all the way.

If Mr Berry has briefed the Chief Minister in the same way he has briefed this Assembly and this community, he has misled her as well. One wonders why the Chief Minister did not double-check what Mr Berry had told her. I am sure she will from now on. Mr Berry, again on the Matthew Abraham program, even misled himself. After telling this Assembly, and convincing others in this Assembly, in May 1993 that a decorporatised ACTTAB would give the government of the day more control, Mr Berry said on the Matthew Abraham show:

ACTTAB is a statutory authority and is responsible for its own actions ...

Under an Act presented in this place, before they can do anything about signing this contract they need a signed direction from this Minister. This is about the time Mr Berry starts to back away. On 19 March on radio SSS-FM - $200,000 from ACTTAB goes to help fund this radio station - Mr Berry tells punters that ACTTAB competed with other TABs. I quote from the transcript:

... we were competitors in a race to get this contract.

The last statement was made only this morning, on the Matthew Abraham show. It is here somewhere; I have so many papers here, it does not matter.

Mr Berry: The truth does not matter. Just make it up, Tony.

MR DE DOMENICO: No, it is not made up, Mr Berry. Madam Speaker, as you know, the Opposition has quoted only Mr Wayne Berry. The only quotes we have given in this debate are quotes from Mr Wayne Berry. What did Mr Berry say on the Matthew Abraham show this morning? This is what he said:

They then went on to attack the principals of VITAB, and, of course, they have come up clean.

Mr Berry, how clean is it when Mr Bartholomew, who you said negotiated on behalf of VITAB, has been convicted twice? How can you say that they have come up clean, Mr Berry, when Cornelius McMahon, who signed the contract on behalf of VITAB, was charged with SP bookmaking in 1988? Mr Berry, they did not come up clean.

Mr Berry: Was he convicted?

MR DE DOMENICO: Mr Bartholomew was convicted twice, Mr Berry. Madam Speaker, ever since Mr Berry first opened his mouth about VITAB on 8 November 1993, there has been a litany of misleading statements. There have been attempts to deny access to documents; false accusations upon false accusations; blaming the world for his own incompetence; failing to provide answers to questions; and, worst of all, concealing information from everyone. This Minister's actions make Ros Kelly look like an administrative genius. On any test, he has misled this house, misled his own colleagues, and misled the people of the ACT.

Notwithstanding what may or may not happen after Professor Pearce's inquiry, this Minister should resign. He should resign now and, if he does not, the Chief Minister should sack him. He has failed this house, he has failed the racing industry, he has embarrassed his own party, and he has humiliated the people of the ACT. Madam Speaker, Mr Berry should not be left in charge of any portfolio. His own words have demonstrated that he cannot be trusted. He does not deserve the confidence of this Assembly.

MS FOLLETT (Chief Minister and Treasurer) (3.35): Madam Speaker, the motion of no confidence in Minister Berry that we are debating today quite clearly seeks to pre-empt the inquiry into the circumstances of the VITAB contract that is now being conducted by Professor Pearce. I agree that it is a matter for the Assembly to determine whether it has been misled; but it is quite another matter to maintain, as the Liberals are doing, that the Assembly should reach a decision on the issue before all the facts are available to it. I believe that that is what is occurring this afternoon. It has certainly been the thrust of the arguments put by Mrs Carnell and Mr De Dominic. If we leave aside some of the more trivial points that they have raised, the core of their argument revolves around several of the Minister's responses to questions in the Assembly.

Madam Speaker, their allegation is that the Minister misled the Assembly by saying, as he did, that the deal with VITAB was safe, or that it was a good deal, after he had been informed that the Victorian TAB had given notice of its intention to terminate ACTTAB's participation in the superpool arrangements. I would like particularly to draw attention to the fact that what VicTAB had done was to give notice. In the normal rhetorical hyperbole for which Mrs Carnell and Mr De Domenico are infamous, they both refer to that deal having been terminated, to the ACT having been chucked out, and all the rest of it. It is simply not true. The Victorian TAB has given notice of that intention. It does not come into effect until some months hence - I believe, not until the end of July. So, again, the Liberals are vastly overstating the case.

I believe that their claim that Mr Berry has misled the Assembly ignores a couple of very important points, and again it is something for which they are becoming notorious. They are points which ought to be taken into consideration in looking at this most serious of charges against a Minister. First of all, Madam Speaker, the answers that the Minister has given must be read in context. Of course, members opposite have not done that now, nor have they ever done it. The questions that the Minister was asked do provide that context, and you have to look at the questions, not just at the answers out of context. Those questions define the matter that he was saying was safe or that he was saying was a good deal. For example, I refer to the *Hansard* of 1 March this year, Madam Speaker. Mr Humphries asked the Minister about the danger that inducements might be offered to punters by VITAB. In response, the Minister outlined the assurances ACTTAB had received that there would be no inducements, and he said that the deal had been checked by the Treasury and the Law Office. After several interjections he went on to say that the arrangement was safe for the ACT.

Opposition members interjected.

MS FOLLETT: Madam Speaker, members opposite were heard in silence. I would appreciate the same courtesy.

Later the same day Mr Cornwell asked a question about why ACTTAB had signed an arrangement with VITAB instead of opening its own office in Vanuatu. You will recall that question, Mr Cornwell. The Minister responded to that question and, again, in response to interjections, he said that the deal was profitable for the Territory, and on the advice he had received it was safe. If we look at the *Hansard* of 2 March, Mr Westende asked a question about amendments to the VITAB contract recommended by the Government Solicitor. Mr Berry responded that he did not have the details with him - and why would he? In response to interjections that the Minister had given the Opposition nothing, the Minister said that the Government had struck a good deal and that he had been involved in making sure that the deal was safe. You must look at the context.

On 3 March Mr Kaine referred to tabled advice which said that the ACT Government had no liability as a result of the VITAB arrangements. He asked about how the Minister could give an assurance that the Government would have no liability in the event that the ACTTAB deal with VITAB, as he put it, went bad. The Minister declined to offer legal advice to the Assembly and he indicated that ACTTAB had taken action to ensure that hey were protected. Mr Kaine asked a supplementary question. The Minister responded that his advice from Treasury and the Law Office was clear and that the ACT Government was safe. So, Madam Speaker, in each of these cases, as I say, you must look at the context. When the Minister was asked a question in the Assembly about whether there were risks of exposure to bad debts from VITAB or whether VITAB was likely to cream off existing ACTTAB business, he responded that the deal was safe. He was responding to questions about the relationship between ACTTAB and VITAB, and he was correct. Madam Speaker, the Minister was not asked about the safety of ACTTAB's relationship with Victoria, with VicTAB. To my knowledge, he has never been asked about that matter in this Assembly, although, as members are, at length, pointing out, they have had five months to do so. Where was the question?

Madam Speaker, the Minister was advised that the Victorian TAB had orally informed both ACTTAB and VITAB that participation in the superpool would not be affected by a contract with VITAB. The Minister has a letter from the Victorian TAB to ACTTAB which denies that the decision to terminate their relationship with ACTTAB was made because of VITAB. Madam Speaker, if there is any doubt about these facts, and there clearly at least can be debate about them, if you do not accept the Minister's word on the issue or the documents he will be making available to members, and has made available, then the appropriate thing to do is to wait - to wait until the examination of these facts is conducted through the inquiry. There is a very complex set of circumstances to be investigated, and I think we would all agree on that: Who said what and to whom; what letters were received; what assurances were given; and in what order did events occur. These are all matters that have been debated. It is quite clear that the no-confidence motion now is a deliberate attempt on the part of Opposition members to make sure that the facts, which are yet to be determined by the inquiry, do not get in the way of a political scalp.

Madam Speaker, the Government has done the right thing by establishing the inquiry which is now under way. It is under way at the moment. We have appointed a highly respected and independent person to conduct that inquiry, and we have given the inquiry appropriate resources. By appointing Professor Pearce under the Inquiries Act, we have provided virtually the powers of a royal commission, to ensure that the inquiry can get to the heart of the matter. Moreover, Madam Speaker, I understand that in conducting the inquiry Professor Pearce is intending to invite submissions in order to ensure that anyone who has information or anyone who has a view to put is able to come forward. It would be far more appropriate for the Opposition to be putting its efforts into providing factual information - if it has any, of course - and putting that information to the inquiry rather than engaging in this political point scoring in the Assembly. Indeed, Madam Speaker, if a motion of no confidence were to succeed today Professor Pearce could be forgiven for feeling that his efforts will be something of a sideshow rather than central to understanding what has occurred. At best the Opposition is being discourteous to Professor Pearce. At worst they are implying a lack of confidence in him.

Mr De Domenico: No; we are implying a lack of confidence in the Minister.

MADAM SPEAKER: Order! Mr De Domenico, you were heard in silence.

MS FOLLETT: Madam Speaker, in this sense I believe that this motion appears to contradict the earlier reported comments of the Leader of the Opposition that she would accept the findings of the inquiry. She has changed her mind since; she saw a point in it. I would like to ask, Madam Speaker: Why does she now argue that in relation to Minister Berry there is no need to wait for the facts? This was not the position, Madam Speaker, that was adopted by the Commonwealth Parliament in relation to the inquiry into the handling of pay television matters. On that occasion, and sensibly, the non-Government majority in the Senate saw the logic in waiting for a report before settling a position. The case against this motion, Madam Speaker, I believe is quite clear: It is fundamentally inconsistent with logic and with fairness to reach a verdict in advance of hearing the evidence.

Madam Speaker, I would like to read into the record - if anyone is in any doubt - the terms of reference of the inquiry into this matter. They are very broad terms of reference and they allow Professor Pearce the latitude to inquire into any matter which he believes is relevant. The terms of reference are as follows:

... to inquire into the following matters:

(a) the circumstances relating to the negotiation of the agreement between ACTTAB and VITAB including

. the arrangements for VITAB access to the Supertab pool -

that is the matter which we have been discussing -

and

. the advice provided to the Minister for Sport;

(b) the circumstances relating to the cancellation of the agreement between VicTAB and ACTTAB -

the matter over which there has been that concern -

(c) the involvement of the Minister for Sport, the staff and board of ACTTAB and any other official in relation to the agreement between ACTTAB and VITAB; and

(d) any other relevant matters.

They are very broad-ranging terms of reference, Madam Speaker, and, in my view, they ought to satisfy all of the concerns that have been expressed. Madam Speaker, I have put forward an argument for due process. We have established the inquiry, we have set it up appropriately and we believe that it ought to follow its course. I think the fact that Mrs Carnell and Mr De Domenico are asking the same questions and making the same allegations as they were back in March really emphasises the need for that inquiry to continue.

I think the best example of the kind of conflict that we are seeing coming forward is the letter that Mrs Carnell tabled from the Queensland TAB and some statutory declarations that Mr Berry will table about whether the Queensland TAB was ever interested in the VITAB deal. There is a clear conflict there, as there is in so many matters, and that sort of conflict can be settled, in my view, only by the inquiry. The Assembly simply cannot say that one side is lying. That is illogical and unfair. Madam Speaker, today we will hear that the basic conflicts between assertions made by the Opposition speakers and Mr Berry ought to be decided by this Assembly. I do not believe that that is the case. The Assembly has been asked to behave like a jury. That is totally inappropriate and it cannot be done.

As a further example, in relation to Mrs Carnell's points about the directors of VITAB, and particularly Mr McMahon, she has alleged that he has a criminal record. The AFP, Madam Speaker, have provided a certificate in relation to Mr McMahon and it says:

This is to certify that the above named -

that is Cornelius Joseph McMahon -

is not recorded in the Criminal indices of the Australian Federal Police.

There will be a great deal - - -

Mrs Carnell: I said that he had been charged.

Mr Berry: Blacken them. Just blacken them.

MADAM SPEAKER: Order!

MS FOLLETT: Yes, Madam Speaker, a clear effort to blacken that man's character, but without the opposing view ever being put forward. There will be those kinds of conflicts, Madam Speaker. For that reason I say to all members of this Assembly: Wait for the inquiry; take part in the inquiry; put forward your submissions, your views, your allegations, your assertions, and even your grubby little mud-slinging tactics to the inquiry; and let that independent and respected person come to the appropriate conclusions.

MR HUMPHRIES (3.49): Madam Speaker, this is not the first time that a motion of no confidence in a Minister in this Government has been moved.

Mr Wood: No; you move them once a year, or three or four times a year.

MR HUMPHRIES: Mr Wood understandably stirs on being reminded of that fact. It is the first time that a motion of this dimension, based on deliberate or reckless misleading of the Assembly, has been moved in the Assembly, and is an occasion for us to reflect on the nature of the standard that we apply to Ministers in this place and, indeed, any member in this place to accurately and truthfully advise this place of the facts as they are known to that person. There is, I think, a reluctance on the part of the Assembly to embark on motions of no confidence or censure because they are a drastic and far-reaching solution to a particular problem.

The problem, if I may put it that way, is ensuring that this house at all times is told the truth. It is not necessarily the case that the house is always told everything it wants to know or might wish to know if it were aware of that information. Sometimes, and I concede this readily, it is appropriate for a government to delay supplying information for various reasons. It is not compelled, for example, to announce policy before it makes that policy and so on; but when it does make statements, when it does tell people in this place certain things, it is obliged to tell the truth - to quote that well-worn phrase - the whole truth and nothing but the truth.

This principle has been honoured by many parliaments all over the world, particularly in the Westminster system, for many, many years. Even during World War II, I understand, the House of Commons in Great Britain would occasionally move into in-camera proceedings in order to ensure that it could receive sensitive information about the conduct of the war. The reason that happened is that the house, notwithstanding the fact that a war was going on, was entitled to know everything, the full truth, about what was going on. Governments would, of course, ensure that that was done without jeopardising the national interest. It may be that the House of Representatives was in the same position during that war. In making those sorts of decisions in that kind of action they respected the concept that, although a government might choose not to put information before parliament at particular times, if it did put information before parliament it should be put forward truthfully or so as to not mislead by selective quoting of particular information. That principle has been defended by all parliaments in Australia at various times, and it is being defended again here today in this place.

Members of this place who are not members of the Government for the most part have little or no role in the conduct of executive government of this Territory; but there are two exceptions to that concept that we have no right to interfere. Those exceptions are, first of all, the right to ask questions and, secondly, the right to receive truthful answers. It is the argument of the Liberal Opposition in this place today that Mr Berry has deliberately or recklessly misled the Assembly concerning important information about the VITAB deal.

This issue has been pursued by the Liberal Opposition for some months. It is impossible to argue that this issue has crept up on the Government unawares. It has been on notice since at least November of last year that there are serious questions about this arrangement which need to be answered in a public sense. It astonishes me that as late as a few weeks ago the Government remained in its bunker on this issue and was unwilling to concede that there was any problem, any question, concerning the VITAB deal. As a result of enormous pressure from this Opposition, I might point out, and this Opposition alone, almost, that inquiry that Ms Follett referred to was finally commissioned. It took some generating.

The issue that we have been pursuing has given Mr Berry many opportunities to turn back and to ask himself and, moreover, to ask his advisers and to ask ACTTAB about the nature and the source of information that he in turn has supplied to this place. I wonder, Madam Speaker, whether Mr Berry has asked himself and his advisers and his TAB enough questions about that kind of thing. Mr De Domenico and Mrs Carnell have argued that there has been a case of deliberate or reckless misleading of the Assembly. It is the case, and has been the case in this place in the past, that inadvertent misleading of the Assembly, accidentally, unintentionally supplying information which was untrue, is not a hanging offence. The converse of this is quite clear; that where a Minister knows that information is untrue, or has an opportunity, or should have an opportunity, to check information which is put before this place, and should have discovered that it was untrue, the obligation on him is to correct it, to withdraw it, if it is not true, and not to go down to his bunker and say, "I refuse to be engaged on this subject; I refuse to correct what I have said; I refuse to make the record clear". Madam Speaker, we believe that in this case there has been more than inadvertent misleading of this place. There has been a persistent misstatement of the facts to the point where it can be said that Mr Berry was deliberately misleading or that he made statements reckless as to whether they were the truth or were not the truth.

I want to comment on Ms Follett's assertion that this motion should not proceed today because it cuts across the inquiry being conducted by Professor Dennis Pearce. First of all, Madam Speaker, it is clear from the terms of reference that were read out by Ms Follett before that Professor Pearce's inquiry is an inquiry generally into the conduct of the VITAB deal, the circumstances of its formulation and the impact that it will have on the ACT. It is not an inquiry - at least not directly or expressly - into the Minister's statements in this house. The Chief Minister, when she announced the inquiry back in March, said - and I am quoting here from a paragraph in the *Canberra Times* - "The inquiry does not question Mr Berry's competence". So it is not an inquiry into Mr Berry's competence.

When then, may I ask, is the Assembly entitled to raise the question of Mr Berry's competence or, for that matter, the extent to which he has truthfully told the house everything about this matter that he ought to have told the house? The answer, Madam Speaker, is here and now; this is the opportunity. There is only one body that can decide whether this house has been misled, and that is this house itself. No other body, no other inquirer, no other person, has the right to make the determination. Only this Assembly has that right. The Chief Minister, of course, can decide whether her Minister has misled her in what he might have said, and she could elect, in that circumstance, to sack him. The Minister himself could decide that he has not been entirely truthful with the public or the ACT Assembly and could decide to resign. It appears that those options are extremely unlikely to occur. It therefore falls on us, as the members of this house, to decide whether we have been misled, and, Madam Speaker, the evidence is extremely clear that we have been.

Ms Follett has suggested that we do not need to do this today; that we can await the outcome of the inquiry. That will reveal all. It will make clear what the circumstances are and it will resolve the issues that are before us today. With great respect, I find it hard to imagine how Professor Pearce can have laid before him any evidence that alters the fact of the company search which Mrs Carnell has tabled in this place. It shows very clearly that Mr Michael Dowd has never been a director of VITAB, but Mr Berry has told this place twice that he was. What is Professor Pearce going to find in that respect that somehow changes that? Absolutely nothing.

The Minister has told us that interstate TABs were competing for the VITAB contract, that we were in fierce competition for this important contract and to bring home the bacon for the ACT. We have proved, incontrovertibly, I would have thought, that that is not true, that it is a figment of the imagination of Mr Wayne Berry or his advisers. What light can Professor Pearce's inquiry possibly throw on that issue? None at all. It is the same for the other six issues which have been raised here. We are the custodians of the integrity of this house and we have the right to upbraid or hold to account any member of this place, any member of the Government, the Opposition or the cross bench, who wilfully or recklessly misleads this place, and the case made by Mrs Carnell and Mr De Domenico is that that has occurred in this case.

Madam Speaker, I wish to examine briefly the concept of ministerial responsibility and to make it clear that in our view there is a strong responsibility falling on Ministers, in particular, in this place to report the truth accurately to this place at all times. Ministerial responsibility is one of the keynotes or the keystones of the Westminster system, which is more or less the system that applies in Australian parliamentary government. At one time, when this policy first emerged at the end of the last century, it was the case that the principle was applied quite rigidly. A Minister was responsible for anything that he did or that his advisers or public servants did. In theory, and I am sure in practice on many occasions, some error, some mistake, some releasing of false information by agents or officers of a particular Minister would cause that Minister to resign his commission. That principle has been inherited in Australia but, of course, has been significantly modified, not just here, but in other places as well, particularly in Britain.

Madam Speaker, I think that the current state of the law and the practice, as it were, in Australia is best stated by the Coombs Royal Commission into Australian Government Administration in 1976. I want to quote one paragraph from the report of that royal commission. It states:

There is little evidence that a minister's responsibility is now seen as requiring him to bear the blame for all the faults and shortcomings of his public service subordinates, regardless of his own involvement, or to tender his resignation in every case where fault is found. The evidence tends to suggest rather that ... ministers ... themselves are not held culpable - and in consequence bound to resign or suffer dismissal - unless the action which stands condemned was theirs, or taken on their direction, or was action with which they ought obviously to have been concerned.

The most recent exploration of the concept of ministerial responsibility, aside from the sports rorts affair, was the pay TV affair last year in the Federal Parliament which centred on the then Federal Minister for Transport and Communications, Senator Bob Collins. I think Ms Follett has referred to this inquiry. The Senate conducted an inquiry in addition to that conducted by Professor Dennis Pearce, the same gentleman conducting the inquiry that we have referred to today. There were two reports of that select committee of the Senate. The second report, and, indeed, the first report, contained valuable summaries of the present state of practice on ministerial responsibility. The committee summarised four categories of action where resignation or dismissal of a Minister "invariably" - that is their word - results. I will not go into most of them, but the first of those four categories was "personal behaviour or conduct which is unacceptable to community standards". They further amplified that particular category by describing it as follows:

Unacceptable personal behaviour may range from deliberately misleading or lying to parliament to being convicted of a criminal offence.

Madam Speaker, unacceptable personal behaviour may range from "deliberately misleading or lying to parliament".

I want, finally, to quote a further paragraph from that select committee report. It says this in the first volume:

Serious lapses in personal behaviour and conduct, and in particular deliberately or recklessly misleading parliament, usually result in resignation. Even with misleading parliament there are variations in outcome. If a minister unintentionally supplies incorrect information to parliament and takes the earliest opportunity to correct the record, it would be unusual for the incident to be taken as an offence worthy of resignation.

I think, Madam Speaker, that had Mr Berry made certain statements some weeks ago in this place correcting earlier statements about, for example, the directorship of VITAB, or the potential offering of inducements by VITAB, or even the expulsion of ACTTAB from the VicTAB superpool, this motion that Mrs Carnell has put before us today would have been somewhat less capable and less likely to succeed. But the fact is that the many opportunities which Mr Berry has had to correct inadvertent misleading of this place have passed. The opportunities he had before him have been lost. In fact, it is clear from Mr Berry's statements on radio this morning that Mr Berry regrets not one jot of what he has done and does not retract one word of what he has said in this place or outside it. Mr Deputy Speaker, in the face of clear evidence that what he has said is untrue, and repeated opportunities for him to acknowledge that what he has said is untrue, he should take the consequence, accept this motion and, I would submit, resign as a Minister.

I want to touch on one of only a very few examples that we have been able to find of this principle of ministerial responsibility being sheeted home when Ministers mislead parliament. That was in 1984 in the Senate where a motion of censure was moved against the then Minister for Resources and Energy, Senator Peter Walsh. A successful censure motion still is a fairly rare occurrence in the Australian Parliament. In fact, it has not occurred in the lower house, I think, with one exception, for at least half a century, and in the upper house it is still a quite rare occasion. On this occasion, in 1984, it was alleged that Senator Walsh had tabled three cheque butts and the reverse of two of those cheque butts. It was alleged that his failure to table the reverse of the third cheque butt, which it was alleged had information highly pertinent to certain activities of another senator in that place, was a selective tabling of that information designed to mislead the Senate. Obviously, the Government opposed that motion, but the Senate supported it.

I want to quote from Senator Don Chipp on that occasion. He was the leader of the Australian Democrats at that time. He supported the motion and he said:

I think three or four times this morning Senator Walsh was asked directly by members of the Opposition: "Did you have that third stub and on the back of the third stub was there a reference as was alleged?". Three or four times he refused to answer that question. During his speech he did not even refer to it. I thought it quite extraordinary that a Minister who was defending himself against a charge did not even refer to the charge. So one comes to the inescapable conclusion that information as alleged by the *Age* was in fact there and was deliberately withheld by Senator Walsh. That, to me, is nothing short of deliberately misleading the Senate. It is for that reason that the Democrats and I reluctantly ... will support the motion moved by Senator Chaney.

I will read the motion that was initially moved by Senator Chaney. It was:

That the Senate censures the Minister for Resources and Energy (Senator Walsh) for his deliberate misleading of the Senate by selective tabling of documents and his refusal to explain his actions despite repeated questioning of the Senate.

Senator Walsh would not answer questions.

Mr Deputy Speaker, we have two situations here - selective tabling of documents so as to suggest something other than the truth, and refusal to answer questions properly asked about this particular incident. I would respectfully submit that Mr Berry has selectively tabled documents - for example, the document relating to inducements - and he has refused or failed to answer questions concerning this matter, and in both of those circumstances he has misled this house as to the outcome of the VITAB arrangement and its effect on the ACT. He has taken those steps, I submit, with the deliberate and clear intention of creating the impression that all was all right with this deal when he knew for a fact that it was not.

As Mr De Domenico and Mrs Carnell have indicated, the Victorian TAB wrote to ACTTAB on 31 January this year giving six months' notice of ACTTAB's exclusion from the linked betting superpool arrangements. After that period the ACT will get the chop from the superpool arrangements. Mr Berry, at various stages, has asserted that this situation would leave the ACT in no worse position than it is now. At other times - - -

Mr Berry: No, that is not right. I said that we could survive.

MR HUMPHRIES: Yes, you have, Mr Berry. Mr Deputy Speaker, I think Mr Berry said that that is a lie, and I ask that he withdraw that.

Mr Berry: No, I did not. I said that we could survive.

MR HUMPHRIES: The acoustics in this chamber are not as good as they might be. Mr Deputy Speaker, we assert, quite justifiably, that the giving of notice constitutes a serious threat to ACTTAB's continuing operation and to its profitability. Mr Berry variously has alleged at various times that it is not a problem, that, yes, it is a problem, and that we have to do all we can to rejoin some linked arrangement with another State TAB. I think it is quite clear that the fact that ACTTAB is in the process of being excluded from the superpool of VicTAB is a very serious indicator of problems with our TAB. Mr Berry knew, presumably on or very soon after 31 January, that we were being expelled. He must, therefore, also have been aware that we were in serious difficulties if that arrangement persisted and no alternative arrangement could be found.

What did Mr Berry do? Apparently Mr Berry did not go to the New South Wales TAB straightaway and say, "We want a pooling arrangement", because he announced in a press release some eight weeks later, or thereabouts, that he was about to do that. Apparently, in the intervening eight weeks or so, he did not bother to go forward and attempt to make negotiations with the New South Wales TAB to overcome the difficulty that he encountered by being expelled from VicTAB. So the Minister has not done that. The Minister, on the other hand, apparently has made some attempt to find out from the Victorian TAB the reasons for the expulsion. At least, that is the suggestion that he has made in this place. But, either way, it must be said that six weeks or so after the expulsion from the Victorian TAB was announced we had not resolved the problem of ACTTAB's link with some other pool arrangement. We had not resolved the question at that stage; so there was, at the very least, a serious question mark hanging over our own TAB and over its future and over its profitability.

Mr Berry was asked about the arrangements in this place. He was asked about the efficacy and the effect of the VITAB deal in this place. Mr Berry knew - he must have known, Madam Speaker - that the VITAB deal had a great deal to do with the expulsion from VicTAB. He knew that, Madam Speaker. To pretend that he had no inkling of that being the case, frankly, is disingenuous. Of course Mr Berry knew that, and he came into this place and said of the VITAB deal, "It is safe for the ACT and it returns a profit, so that is good news on both scores". Good news on both scores; safe for the ACT! Even today, three months or so after the decision has been made to expel us from VicTAB, when we still do not have an arrangement with New South Wales and we have not repaired the arrangement with Victoria, and nobody else is on side to take us on board and bail us out of the sea, Mr Berry still insists that it is safe. Mr Berry still seems to think that nothing has gone wrong.

Mrs Carnell: He said that on radio this morning.

MR HUMPHRIES: He said it this morning on the radio - everything is okay, everything is hunky-dory. You know that it is not hunky-dory; you know that things have gone wrong. Yet you say to this place:

We know a good deal when we see one. What we also did, and what I personally was involved in, was to make sure that the deal was safe with respect to the Territory.

You have said that what has happened is that the ACT Labor Government has struck a good deal. You knew when you said those things that they were not true; yet you repeated them again and again.

The intention in saying that, Madam Speaker, was not just to try to deflect Opposition attacks on the very issues which have now revealed themselves to be such a major problem, but in fact to create for us, for observers of this place and for the public of the ACT the impression that the ACTTAB was sailing through calm waters; that there were no problems; that, by implication, there would be no suggestion that we would have been expelled from any other linked TAB and we would therefore face a serious threat to our profitability and the viability of our TAB in the future. That is the only reasonable interpretation of Mr Berry's comments. Would a Minister who wanted to put all the information, the full facts, before the Assembly have declined to mention to this place that we had been expelled from the Victoria TAB? Did Mr Berry forget? Did he overlook this fact? Was it not in his briefing papers? Did he not think it was important? What excuse is there? There is not an excuse, Madam Speaker. There is no excuse.

Madam Speaker, there is also evidence, I think, in the language Mr Berry has used in this place, that when he returned to this place in late February and early March and continued to defend the VITAB deal, and continued to make no reference to the fact that we had been expelled from the Victorian TAB, he knew what had happened; he knew that it was relevant to what was going on with the TAB's future and he knew that he had to distance himself from this arrangement. Let me quote a few things that he said in November and December. I just want to read these phrases:

Madam Speaker, the VITAB arrangement was one that we were quite impressed with in terms of the opportunities that it would present to the ACT Government ...

The TAB's arrangement with VITAB is a particularly encouraging initiative which will also see the ACT at the forefront of computing and communication technology. These are things that you probably are not interested in because they are positives ...

Most importantly, this is about ensuring that the Territory is safe, and it is good value for money.

Very assertive, very direct; no qualifications, no ifs or buts. "This is the fact", he was saying. Again I quote from *Hansard* of 23 November:

The agreement will return for the ACT significant amounts of money, at little cost to the Territory Government.

Again, he said on 23 November:

You have to look at the big picture, and the Liberals never do that. VITAB received the second licence - the second licence, not the first - and whoever provides the support services would make no difference. The possibilities for ACT punters are endless in the Australian context. You can ring whom you like and put on a bet, the same as it is possible for people all over the country to put a bet on in the ACT.

He went on to say, on 8 December:

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

Direct, forceful, informative. I want now to quote from Mr Berry's answering of questions on 22 February 1994. Mr Berry, in the meantime, had had certain knowledge come to him about the ACTTAB being expelled from VicTAB. Listen to the change in the tenor of the answers he gave then. I will emphasise certain words. This is in answer to a question from Mrs Carnell:

In late July 1993 I was briefed on the proposed ACTTAB-VITAB arrangements by the chief executive of ACTTAB at that time. I was informed that discussions were being held between Mr Dan Kolomanski and Mr Con McMahon. I understand that the officers from ACTTAB primarily involved in the negotiations ...

At no time did I meet with any representatives of VITAB, nor was I privy to discussions at any meeting ...

... I asked that advice be sought ...

... I was given the necessary assurances ...

I am advised that the results ...

I am advised that ...

I understand that ACTTAB and its solicitors are currently ...

I am advised by ACTTAB ...

In the space of one page you qualified your statements on this VITAB affair more often than you did in the whole year. You knew, Mr Berry, when you made those statements, that something had gone wrong, very badly wrong, and you were distancing yourself as hard and as fast as you could from the decisions that had been made, apparently by ACTTAB but in fact by you, the Minister directly, totally and absolutely responsible for the activities of ACTTAB. Nobody else is responsible, as Mr De Domenico has indicated, but you. You, Minister, took on the responsibility when you decorporatised ACTTAB. You were the Minister who would be held responsible for the successes and the failures of ACTTAB. You were prepared, in November and December of last year, to take all of the credit for this big deal that you had done with VITAB. You must now, Minister, take all of the responsibility for the failure of this deal. You appear to be the only person in the ACT who still will not acknowledge that VITAB has failed this Territory very badly.

I want to turn to some things that Ms Follett said in this place. She said that we have to look very closely at the questions that were asked of the Minister; we have to put them in context. The Minister never specifically said, says Ms Follett, that the ACTTAB-VicTAB deal was safe. No, no, no; he was referring only to other specific issues. I quote once more the phrase that Mr Berry used on 1 March:

... it -

that is the VITAB deal -

is safe for the ACT.

Safe for the ACT, not for VITAB; not even just for ACTTAB, but safe for the ACT. Was that taken out of context? I do not think so.

The Minister, according to Ms Follett, was never asked about the safety of the Victorian TAB-ACTTAB link. She must have a different *Hansard* from mine, because my *Hansard* for 8 December 1993 has this question from Mrs Carnell to Mr Berry:

My question without notice is to the Deputy Chief Minister in his capacity as Minister for Sport. I refer the Minister to a meeting of senior executives of TABs from around Australia in Sydney on Monday, 6 December. Is it true that the ACTTAB was advised at the

meeting that its involvement in the super-TAB link system could be in jeopardy should its recent deal with VITAB result in lost turnover for Australian TABs? What guarantee can the Minister give that there will not be any lost turnover for the TABs?

Was he not asked about the link? Was that not a question about the link?

Mr Berry: What date was that?

MR HUMPHRIES: It was 8 December, Minister, at page 4382. That was the question that was asked, and that was a question about the link between the ACTTAB and other TABs, was it not? What did the Minister say in response to that? Surprise, surprise; he talked about "grubby little stunts". "The grubbiest of stunts", he said; that is what this is all about. I quote:

The Liberals have been trying to make a big thing out of this. The Government made a good decision and decorporatised the ACTTAB.

Then he talked about decorporatisation.

Mrs Carnell: He did not want to answer the question.

MR HUMPHRIES: He did not want to answer the question. He was not interested in answering the question. He said:

The ACT is not the only TAB that has an interest in what goes on in Vanuatu ...

The other TABs do not like our success, either.

He directly suggested in this place that the other TABs had competed for the VITAB deal. That was not true. It was not true then; it is not true now. It never has been true. It was blatantly untrue. Did you know that, Minister? I want to quote from a letter from the Totalisator Administration Board of Queensland to Mrs Carnell. It says:

In order that you receive a prompt reply to all questions raised in your letter, I advise that the Queensland TAB did receive an approach from VITAB to submit a proposal for them to gain access to our pools.

Due to legislative restraints on the Queensland TAB, we were not in a position to consider off-shore links with other organisations, and the representatives of VITAB were advised accordingly.

Who were the competitors? Whom were we struggling with? Whom were we fighting at the gatepost to get past, to get in to get the VITAB deal? Who were our competitors, Minister? Interject. Come on, you like to do that. Tell us. Who were our competitors?

Mr De Domenico: Name four that we competed against.

MR HUMPHRIES: Name four. Name one. Anybody. Tell us. Come on. There was nobody. What you told this place was untrue. The question is: Was what you told this place a lie? That is the issue before the Assembly today. Did you deliberately or recklessly mislead this place? The fact of life, Madam Speaker, is that Mr Berry had many opportunities, from the first point when this information came forward to a point as recently as a month ago, to correct what he told this house and he did not take advantage of that opportunity because he did not want to.

Mr Berry: The old web of deception, Gary.

MR HUMPHRIES: Mr Berry, you know all about webs of deception. You certainly know all about webs of deception. Mr Berry has not spoken in this debate yet. He does not appear to be anxious to do so. He appears to be wanting to wait until he can get as far away as he can from the statements that have been made and try to summarise and make points that will be hard to respond to. Members on this side of the chamber have already responded to the things that have been said. We do not know what he is going to say, if he does speak at all.

I will say this, Madam Speaker: Mr Berry's response to so much of what has been said by this Opposition about this issue has been simply to hurl vitriol. He says that the Liberals are attacking a good deal and are involved in grubby little stunts; they are besmirching or blackening the names of the principals. In fact, in one version of the events he says that the Liberals have caused the whole thing by putting up VicTAB to expelling ACTTAB from the superpool arrangement. Everything that has been said by the Opposition has been denigrated or attacked on that basis. We expect that, of course. It is Mr Berry's modus operandi. He likes to say unpleasant things about people on this side of the chamber. That is part of life in this place.

I think that those attacks on the Opposition have hidden a great weakness in Mr Berry's approach as a Minister, and it is particularly apparent on this occasion. If something adverse to the VITAB deal does come out of Professor Pearce's inquiry, Mr Berry will be saying, no doubt, "Well, I did not know about that. I was advised a certain way, but I did not know that this was going to happen like this". He will be told by those on this side of the chamber that he did know about them because we told him about them, day in day out in this place, week in week out, over a period of four months. We told him about what was going on, in this place and in the media. He will say, "I do not believe the Liberals. I choose not to believe the Liberals". Apparently, Madam Speaker, Mr Berry is so used to discarding the contribution of those in this part of the chamber - denigrating it, attributing mala fides to its motives - that the issue of VITAB and what I think has been called a shonky deal flew right in under Mr Berry's radar. The problems stared him in the face, day after day in this place. In fact, they were served up to him on a platter - to mix the metaphors - but he ignored them.

The best example of why Mr Berry cannot ignore, shelve or shovel off the responsibility for this matter comes with the question of the directorship of VITAB. The directors of VITAB, he told us, were Mr Kolomanski, Mr McMahon and Mr Dowd. He said that on at least two occasions in this place. We tabled in this place a company search which said that the directors were Mr Kolomanski and Mr McMahon, but they did not include a Mr Michael Dowd. The third director was a certain Oak Ltd. Mr Berry had said that Mr Dowd was a director. So here he is saying in this place that Mr Dowd is a director, and the Liberals are tabling a company search saying that Mr Dowd is not a director. Mr Berry has two possible conclusions to draw. One is that the Liberal Party has tabled a forged company search in this place. Even by the standards which he attributes to us, that is a fairly exceptional and somewhat bizarre turn of events, I would have thought. Perhaps the more plausible explanation is that the information he has supplied to the Assembly is untrue. Either he was extremely stupid at the point where he chose to ignore that particular piece of evidence staring him in the face, or he did not want to reconcile the inconsistencies that faced him.

In these circumstances, Madam Speaker, Mr Berry cannot hide behind advice given to him by his advisers or by ACTTAB. He cannot plead that he did not want to believe the Liberals and, therefore, did not have to believe the Liberals. What he has done in this place is conduct absolutely inconsistent with his duty as a Minister in this place, and is conduct for which he should resign or be sacked. Madam Speaker, I do not know whether this motion will succeed today. The members on the cross benches have not given us any commitments about their position and I do not know whether it will succeed or fail, but I will say this much: If the motion does fail there will be a bright side. I have been a Minister in the ACT and I hope one day to be a Minister again. If I am a Minister I will draw some comfort from the failure of the passage of this motion today. The standard that I will need to meet will be a fairly easy standard to attain.

I will not need to worry very much about what I tell this place, because of the precedent set here today if this motion is not passed. I will not need to worry about telling this place that the Adoption Act will be enacted in the next few weeks. It will not matter very much if I say that and it is not true. I will not need to worry very much about telling this place about who the directors of particular companies are, with information at my disposal. It will not matter very much. I will not need to tell this place that every other health authority in Australia produces the same kinds of intrusive search powers that the ACT happens to want to put forward, because it will not matter very much if I say that. That, Madam Speaker, may well be the legacy of the Second Assembly to future parliaments in this place. I must say that, despite the fact that it would make life easier for Ministers in future governments, it would be nothing much for this place to be proud of.

I think the onus falls on us now, today, to make it clear that the standard of ministerial accountability that has been set by this Minister is unacceptable. If this place is to remain relevant, if it is to retain its capacity to keep Ministers accountable under the Westminster tradition, we have no choice but to pass this motion. Anything less would be, in my respectful opinion, a great tragedy.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (4.31): Madam Speaker, a motion of want of confidence in a Minister is a fairly serious matter - or at least it should be. The fact that one week last year in the Assembly I think I set a record of facing two such motions within a week indicates that to some extent the currency is being rather devalued in this place, and the fairly vitriolic political rhetoric of the previous speech would indicate a lot of what is behind this motion. But a want of confidence motion should be a serious matter. It is something that members should not vote on lightly, and I am sure that members on the cross benches will not vote on it lightly. Mr Humphries indicated that he is unaware of how they are going to vote, as are we. Clearly, Independent members have been thinking very hard and long about this issue. I want to address my remarks this afternoon, Madam Speaker, directly at those Independent members, because there are some very important issues of principle at stake.

What is unprecedented at the moment in the ACT is the fact that we have an inquiry on foot under the ACT Inquiries Act with terms of reference that go directly to the conduct of a Minister of the ACT Executive. Madam Speaker, the terms of reference refer to:

(c) the involvement of the Minister for Sport, the staff and board of ACTTAB and any other official in relation to the agreement between ACTTAB and VITAB; and

(d) any other relevant matters.

So the facts surrounding this matter - the involvement of the Minister for Sport - are before the inquiry. It is clear from the terms - - -

Mr Humphries: Not according to Ms Follett.

MR CONNOLLY: What Ms Follett said is that it does not affect her confidence in Mr Berry, nor does it affect the confidence of any of us in the Government in our colleague. But it is a matter where the Government has put - - -

Mr Humphries: No. "Does not question Mr Berry's competence" is what she said.

MR CONNOLLY: If you believe what you read in the *Canberra Times*, you sometimes get things very wrong. Madam Speaker, it is a significant matter for the Government to have an inquiry under the Inquiries Act into its own conduct. It was clearly going to happen on some occasion. We have had one inquiry, although not precisely into the actions of this Government. That one inquiry was into Ainslie Village. This is only the second time that the Inquiries Act has been used.

Members of the First Assembly would recall that the Inquiries Act was passed by this Assembly. It was in fact initiated by the Alliance Government but, I think, at the end of the day came into force when we were in office. I cannot quite recall the timing, but there was a conscious decision that a royal commission power was too large a hammer to crack certain nuts and that it would be prudent to have a form of inquiry that had the powers of

a royal commission - the ability to summons witnesses, the requirements to put people on oath, the protections and the seriousness of a royal commission - but that was somewhat less formal than a royal commission; that did not require, for example, the appointment of a judicial officer to conduct it, something which has come to be seen as a common feature of a royal commission in Australia.

The Inquiries Act is a very serious piece of legislation. The decision to refer a matter to an inquiry is a serious decision not taken lightly and should be observed as such by members of this Assembly. I say to Independent members that you should look very closely at parliamentary practice in Australia, at what parliaments do when matters go to facts and individual conduct. Ms Follett tabled the terms of that board of inquiry in the house today. I imagine that in the negotiations around this matter members have seen those terms of reference. They clearly go to the facts surrounding this whole matter. Opposition members have been waving around their very impressive looking stage prop of the VITAB affair - a thick manila folder over there. Clearly there are hundreds and hundreds of pages of facts in that.

There are a lot of facts that are in contention. We heard some very sinister sounding material about breaches of the law and failure to table directions. Mr Berry will very rapidly resolve that matter. You are quite wrong on that. You assert a fact which you say shows that Mr Berry misled this house. Mr Berry will produce documents and facts this afternoon in his factual defence which we say show that what you say is a nonsense, and it is in a sense up to the Independents to form a judgment on that. I say to the Independents that this is a matter that goes to facts; it is a matter that goes to the state of Mr Berry's knowledge as to particular matters at particular times; it is a matter that goes to Mr Berry's involvement in this VITAB agreement process. Clearly, on your allegations, this is what this goes to; and the fact that that matter is clearly before a board of inquiry indicates that we should, as the Chief Minister urged, wait until the verdict is brought in before we pass sentence.

Madam Speaker, I believe that it would have been quite proper for me to rise at an early stage in this debate and draw your attention to the sub judice convention and the way parliaments in Australia have applied that to royal commissions. The Government has consciously not done that. We did not wish to be accused of trying to stifle debate on this, because then that would be seen as another sinister act that the Government was engaging in. Far from stifling debate, far from trying to stifle facts, we have appointed Professor Dennis Pearce, a former Commonwealth Ombudsman, a person of very high repute - - -

Mr De Domenico: But you did it kicking and screaming, for heaven's sake. You did not want to do it; you had to be forced to do it.

Mr Humphries: You had to be forced to do this inquiry.

MADAM SPEAKER: Order!

MR CONNOLLY: Quite properly, I have heard nothing from the Opposition to suggest that he is not a person of high repute or that his inquiry will not be a fully independent process. I hear some muttering over there. You seem to be claiming credit for achieving an inquiry. You seem to think that is some sort of feather in your cap. Now, in a cavalier manner, you are saying, "Well, an inquiry has been set up, but do not worry about that. We want you today to pass judgment on the state of facts surrounding Mr Berry's knowledge at the time". It is a matter of whether Independent members believe your version of the facts or, the Government would say, the correct version of the facts that will be given by Mr Berry. It all comes down to members having to make decisions about what the facts were at various times in relation to this very long and convoluted process. Obviously the fact that it is a long and convoluted process is common ground, because you are waving around 600 pages of documents there which you say make your case.

What is the practice in relation to royal commissions and commissions of inquiry? Madam Speaker, I will argue - and I urge members to have a look at this - that it is clear parliamentary practice that, where a commission of inquiry has been appointed to inquire into facts and an individual's conduct, parliaments should refrain from passing judgment on that individual's conduct and those facts. What is regarded as the authoritative book on parliamentary practice in Australia, the second edition of *House of Representatives Practice*, says at page 491, in relation to the sub judice convention:

The practice of the House of Representatives is as follows:

... ...

It draws a distinction. It gives two examples. Our argument will be that this clearly falls on one side of the line. Again, at the end of the day it will be a matter for Independent members to make their decision on what is the proper practice, but I say that this is a very important point. The precedent that we are establishing is something that we should not lightly blunder into. Browning says at page 491 in the final dot point:

Proceedings before a royal commission or judicial inquiry shall not be referred to in motions, debate or questions where the matter inquired into concerns issues of fact or findings relating to the propriety of the actions of specific persons.

On the other hand, he says:

Proceedings before a royal commission, where the matter inquired into is intended to produce advice as to future policy or legislation, may be referred to unless such references would constitute a real and substantial danger of prejudice to the proceedings.

So Browning draws a distinction and says that, where there is an inquiry on foot into specific matters of fact and the conduct of specifically named individuals, parliament should not pass judgment while that inquiry is on foot. I would say that, when you look at the allegation and the terms of the motion before you - that Mr Berry has quite

deliberately or recklessly misled the parliament - and you look at the terms of reference of the inquiry under the Inquiries Act, which go to the conduct of the Minister and any other relevant matters, it is clear that this is a case that falls within the first dot point; that is, specific facts in relation to the conduct of specific persons are being inquired into.

That is expanded on at page 494 of Browning under the heading "Matters before a royal commission". There could be a quibble that we are talking about an inquiry and not a royal commission. The debate surrounding the passage of the Inquiries Act and the Royal Commissions Act was a cognate debate. We in fact said from the Opposition that you should not have two Bills; you should simply have the one. The view of the Assembly at the time was that it would be better to have two Acts running parallel; that an inquiry was a slightly lower version of a royal commission but nonetheless a very serious matter. At the end of the day we went along with that. So it would be very much splitting hairs to say, "Well, that may be the practice in law in relation to a royal commission, but it does not apply to an inquiry". Mr Browning says at page 494:

In 1954, Speaker Cameron took the view that he would be failing in his duty if he allowed any discussion of matters which had been deliberately handed to a royal commission for investigation. The contemporary view is that a general prohibition of discussion of the proceedings of a royal commission is too broad and restricts the House unduly. It is necessary for the Chair to consider the nature of the inquiry. Where the proceedings are concerned with issues of fact or findings relating to the propriety of the actions of specific persons the House should be restrained in its references. Where, however, the proceedings before a royal commission are intended to produce advice as to future policy or legislation they assume a national interest and importance, and restraint of comment in the House cannot be justified.

He continues by saying:

The question as to whether the proceedings before a royal commission are sub judice is therefore treated with some flexibility to allow for variations in the subject matter, the varying degree of national interest and the degree to which proceedings might be or appear to be prejudiced.

So there is clearly an element of judgment that is required to be made by members here, and the element of judgment is essentially about on which side of the line this falls. Is it a matter that goes to facts and the conduct of specific individuals? We have heard the debates and the diatribe - "We say that Mr Berry did this. We say that Mr Berry's state of knowledge of the facts at a certain time was this, and therefore he misled". They must be seen as allegations of a factual nature, going to the conduct of a named individual, which parallel very closely the terms of reference that have been granted. It is significant in forming your decision that you look at the fairly open-ended nature of the terms of reference, which conclude at point (d), "any other relevant matters". So Professor Pearce has a fairly - - -

Mr Humphries: So why did he not stand down?

MR CONNOLLY: Senator Collins did not stand down. There are plenty of examples of where Ministers have not stood down. Madam Speaker, very similar statements of law and practice are provided in *Australian Senate Practice*. Senate practice may be in some ways more instructive here. Mr Humphries, in his tour de force on parliamentary history - and I can assure Mr Humphries that there were secret sessions of the House of Representatives that did parallel British practice - said that very rarely have motions been passed against Ministers in the lower house. Understandably, the two-party system would tend to preclude the passing of such motions. But the Senate is a different kettle of fish. It has been comparatively rare in the last 20 years for the government party to control the Senate. So the conduct of the Senate in relation to what it does with censures of Ministers, motions of want of confidence in Ministers and royal commissions may be more instructive. The practice is very similar. Page 252 of the fifth edition of Odgers's *Australian Senate Practice*, referring to the sub judice rule, states:

... the rule has application to other hearings, inquiries or investigations in which the rights of individuals or a community group ... may be prejudiced.

In fact, *Australian Senate Practice* refers to an incident in the House of Representatives but says that that is applicable to the Senate as well. It states:

On 18 September 1974 Speaker Cope ruled that discussion of any matter within the terms of reference of a royal commission would be an infringement of the *sub judice* rule. He stated that his ruling was supported by past rulings that it was not in order to discuss the proceedings of a royal commission or matters coming before it, and that the Chair would be failing in its duty if it allowed any discussion about matters which had been deliberately handed to the commission for investigation.

Madam Speaker, we deliberately refrained from taking a point of order on that ground, and I do not ask you to rule on that point, because we do not want to be seen to be using that rule to stifle debate. But I do say to Independent members that it is a very important issue of principle. A decision to refer a matter to a commission of inquiry under the Inquiries Act or to a royal commission is a serious decision, one not to be taken lightly; and proceedings of that inquiry are serious proceedings that this Assembly will no doubt look at with interest and, I have no doubt, will wish to debate when a decision is handed down. But today, for this house to pass a resolution which in its terms is directed at Mr Berry and is based upon certain findings of fact adverse to Mr Berry - an assumption that Mr Berry has misled this house - would, I say, and the Government says, seriously undermine the integrity of the inquiry process. It is for that reason that Australian parliaments have taken the view that they should be very restrained in the way they approach these matters.

It is significant that the sub judice convention is merely a convention; it is a self-imposed limitation on parliament's freedom. There is no question that, as a matter of law, parliament is free to do whatever it wants; but parliaments have traditionally been very cautious about infringing upon matters that are before courts or inquiries and commissions of inquiry. In relation to courts, it is a very strict self-imposed limitation. In relation to commissions of inquiry, there is that rather more sophisticated distinction that must be drawn between inquiries of a general policy nature, which may not infringe upon the parliament's freedom of action, and inquiries into specific facts and specific individuals, in relation to which Australian parliamentary practice in both the Senate and the House of Representatives shows that there is a clear tradition of the parliament holding its fire, suspending its judgment, until such time as an inquiry has reported. I say to Independent members: That is a very important matter that should be in your considerations.

Madam Speaker, where is the practice for ignoring the findings of fact that will be made by an independent tribunal and for rushing straight to judgment? I will tell you what the precedent is, Madam Speaker. In fact, I will read it for you:

"Let the jury consider their verdict," the King said, for about the twentieth time that day.

"No, no!" said the Queen. "Sentence first - verdict afterwards."

"Stuff and nonsense!" said Alice loudly. "The idea of having the sentence first!"

"Hold your tongue!" said the Queen, turning purple.

"I won't!" said Alice.

"Off with her head!" the Queen shouted at the top of her voice. Nobody moved.

Madam Speaker, Lewis Carroll's *Alice in Wonderland* seems to be the closest example we can find to the practice that the Leader of the Opposition is urging on the house today - sentence first, verdict later.

Madam Speaker, Mr Humphries expressed the wan hope that some day he may find himself in government. He was suggesting that then he may take certain views about practices that were established for ministerial conduct. One could look at the Alliance for practices of ministerial conduct, but I say to all members that you need to take the long view on this. This not only involves the question of when you should exercise parliament's clear right to pass a motion of want of confidence in a Minister but also involves the very important question of how we should respect an independent inquiry that has been set up under legislation passed by this Assembly to inquire into serious matters of public importance. We have established the inquiry. You were crowing a few minutes ago that you regarded as some sort of political victory by the Opposition the fact

that an inquiry had been set in place. There is no question as to the propriety of the inquirer. Professor Pearce is seen by everyone in this place as a totally independent and fair inquirer. He has broad terms of reference, which you have before you. They clearly go to the factual matters that have been canvassed.

Mr Berry, in his remarks, will nail many of the misstatements of fact that you have put before this Assembly. But it essentially comes down to members making a judgment on what the true state of facts is and, from that true state of facts, what your views are about Mr Berry's knowledge at certain points of time, in order to make a decision on whether he misled the house. To do that, you are clearly trampling across the commission of inquiry's proper terms of reference. Members should withhold judgment - they should vote against this motion - because to do otherwise would seriously prejudice the future of inquiries or royal commissions in this jurisdiction. Other parliaments have properly exercised reserve in these matters, for good reason. The practice is very clearly there in the texts on parliamentary procedure in Australia. It clearly draws a distinction between two types of inquiry or royal commission. This matter clearly falls within the first category, where parliament should exercise restraint. To take the contrary course is to endorse the Queen against Alice and to say that the correct approach is sentence first, then verdict. "Off with his head", says Mrs Carnell. That is good political point scoring but very dangerous and unsound public policy.

MR KAINE (4.49): It is interesting that the Attorney-General introduced the concept of Alice in Wonderland. I have to wonder whether he is Alice or the rabbit, because quite frankly he just raised an issue which he might well have been better not to raise. The Opposition, in raising this matter, took the view that there are really two different subjects here. One is the deal which the investigating officer is looking into; the other is the Minister's action in this house. We make a distinction between the two.

Mr Connolly, of course, has just muddied the water. If what he says is true - that we should not be looking at this while an inquiry is taking place - then I ask Mr Connolly and Ms Follett: Why has the Minister not stood down while the inquiry is taking place, if this is an inquiry into him? But the fact that he has not done so was justified by Ms Follett earlier on the grounds that this is not an inquiry into Mr Berry; that his competence is not in question; that, therefore, he stays in his job while the inquiry is being done. You cannot have it both ways. Either that inquiry is about Mr Berry or it is not; and, if it is, he should have been required to stand down while it is taking place. You hoisted yourself, Mr Rabbit, with your own petard, I suspect.

Mr Connolly: He stood aside as racing Minister. The inquiry is into his conduct as racing Minister.

MR KAINE: I notice, Madam Speaker, that the concept of listening to speakers quietly has gone out the window now. The Chief Minister was demanding to be heard quietly before.

MADAM SPEAKER: Order, Mr Kaine! It is your side that is assisting you. We will proceed in silence.

MR KAINE: The Chief Minister was demanding a little while ago that she be heard in silence. Why do you not apply the same rule for the rest of us?

Mr Lamont: The Chief Minister had something important to say, though.

MR KAINE: Now Mr Lamont gets into the act. He just cannot stand sitting there quietly.

Madam Speaker, there are two issues that cause me some concern in this matter. They have to do with, first of all, the nature of the deal that Mr Berry got himself into and then either his determination - I suspect that it is determination - or his inability to deal with the consequences of that on the floor of the house. Let us look at the deal. He has been saying that this is a good deal. It is interesting that it is only the Opposition that has dug out the facts about the deal that Mr Berry is so proud of. For example, I hope that Mr Berry, when he gets up to talk about it, tells us how this deal started. Did somebody sidle up to Mr Berry in a pub and say, "Have I got a deal for you!". Is that how it started, or was there some legitimate proposal that came forward in a formal and official way? I have my suspicions. Had Mr Berry taken the trouble to do the proper search that Mrs Carnell, Mr De Domenico and others asked him to do, it would have rung bells, surely.

Here we have a company established in Vanuatu. There are three principals. The relationship of two of them with the racing industry is, let us say, shady. The other one is a company about which we know nothing. It has only two shareholders. The only two shareholders are the two people to whom I have alluded, whose association with the racing industry could be reasonably described as shady. How much is their shareholding? They each have one share of $1. So we have a $2 company that comes along to us and says, "Have we got a deal for you, and you are going to make a lot of money", and Mr Berry falls for that. How come a $2 company registered in Vanuatu - they will not even register it in Australia - is going to make so much money for this Territory? But Mr Berry does not smell a rat. He continues to say, "This is a great deal. We have this great company over there that is going to make a lot of money for us". One could ask the question: If any money is to be made, who is going to make it? The facts, even since Mr Berry first bought this deal and set it in train, speak for themselves.

Despite the Chief Minister's protestation, for all practical purposes we have been excluded from the Victorian superpool. If that is not an adverse consequence, I do not know what is. We have yet to see whether New South Wales will let us into theirs. Why has this occurred? The reason is that Mr Berry went into the VITAB deal - no other reason, none whatsoever. But this is the deal that Mr Berry is so proud of. That concerns me. My only questioning of Mr Berry on this matter up until now has been to ascertain whether or not the ACT taxpayers were going to lose money over it. He gave an assurance that they would not. That remains to be seen, and that remains my major concern. The Chief Minister talks about grubby little deals. Only one person entered into a grubby little deal, and that is the Minister - and obviously with the agreement of the Chief Minister. We will see at the end of the day whether these two people turn out to have gone into a good deal or a bad one. That concerns me.

We come to the question of deliberate or reckless misleading. I am prepared to accept that the Minister has recklessly misled the Assembly; that the misleading is not deliberate. He has recklessly misled us, because he did not know what he was doing and therefore has failed to understand what he has got himself into. Despite constant questioning by the Opposition, he has failed to understand what he has got himself into. The Chief Minister says, "Well, everything is all right now because we have an inquiry". Why do we have an inquiry? We have an inquiry only because the Chief Minister started to feel that heat on the belly that Mr Berry keeps talking about. But where did that heat come from? It came from questions consistently raised by the Opposition - a legitimate process to establish the credentials of the Minister and the bona fides of the Government.

When you come to misleading, you can mislead either by commission or by omission. You can tell an untruth or you can fail to disclose something, and the Minister is guilty of both. The first part - the misleading by commission - has been amply demonstrated already. Mr Berry talked about the directors, and he did not tell us the truth. He told us that this was a public company, when it was a private company. There is a whole list of things that have been dealt with already. But it is the things that he has not told us that have worried me just as much. One of those has been dealt with already. That is the question: When did VicTAB tell us, "You are out."? Why did he not come and tell us when that was the case?

I am quite sure that as we go more and more deeply into this we will discover that there are other matters. But it is the attitude of the Minister and his Government on this matter that bothers me. When you go back through some of the documentation, the first thing that we find out is that on about 27 January this year VITAB, in response to a question, said that they opposed the release of any information whatsoever in regard to VITAB Ltd and a whole range of other things. They were opposed to the release of any information whatsoever. One could ask why. Why did VITAB not want this Assembly and the community in general to know what sort of an organisation Mr Berry had got into a contract with? That is the first question. But the second interesting question is that the Minister swallowed that. Here we have a $2 company registered in Vanuatu, and it says to these elected members of the Assembly, "You cannot even tell the other members of the Assembly anything about us, not one thing", and the Minister buys that. That is consistent with the Minister's approach. Questioning consistently over a period of months has elicited nothing from this Minister. He has flatly refused to answer questions, or he has answered them incompletely, or he has left out a lot of the answer that he should have given. We have had this constant deception.

The exhortation which the Minister accepted without question not to reveal one single thing about VITAB is only part of the story. Later on in the documentation we discover that the Minister was advised by one of his officers on 25 February that he should not make documents available under FOI. And why should they not be made available? Because in one particular case:

This page contains information relating to the workings of the Government and Cabinet process. The release of this document would disclose the deliberative process of the Territory.

In other words, you are not even allowed to tell us anything about the processes of government.

Mr Berry: Of Cabinet.

MR KAINE: That is not what this advice says. The advice says "information relating to the workings of the Government and Cabinet process". You were advised not to release this page for those reasons. In other words, the Assembly is not even entitled to know anything about the workings of the Government. And you, Minister, bought that. You bought that, and you refused to release information on that basis. Since when is it inappropriate to release a document that discloses the deliberative process of the Territory - not the Cabinet; the deliberative processes of the Territory? Under that ruling you are never going to release anything under FOI. You bought that, Minister, and it is part of this business of refusing or omitting to tell members of the Assembly and the community what you are doing. The same advice from the same officer said:

The document contains two paragraphs detailing the deliberative process of the Territory and Cabinet and as such it would be inappropriate for it to be released.

Minister, if you really believe that you cannot release a document because it has details about the deliberative processes of the Territory - twice there repeated - what on earth are you going to release? This is the attitude. It is not only in connection with VITAB, not only in connection with this shady deal that you got yourself into. The whole attitude of the Government is, "We are not going to tell you anything. If we can deceive you, we will". Obviously quite deliberately, Minister, over a period of time you have deceived the members of this Assembly by your answers, your failure to answer, your distortion of the information that you were prepared to make available and in many cases your decision that you simply would not answer the question. Hansard is full of it. It goes on month after month.

To me, one of the most worrying things about this is really your approach to this subject. Because there was a great deal of community concern about the matter and because you refused to do so, the Opposition undertook a study of what on earth did happen, how it happened and why it happened. Every time we put a bit of information on the table, asked you to comment on it and asked you for your view, you avoided the question, until finally the Chief Minister was forced into convening an inquiry. But is that the way you intend to do all your business as a Minister in this Government? If that is the way you intend to do your business, I do not believe that your other ministerial colleagues would agree with you. If they do, they should all go, because that is inappropriate. You and your Chief Minister in particular have constantly talked about open government, from the very first day of self-government. You have talked about open and consultative government, to the point where it has become nauseous. This is your approach to open and consultative government: "Do not tell them anything. If you must tell them something, do not tell them the truth and, if you can obscure and hide information, do so". That is what this issue is all about.

I submit to you that if you had done your homework properly in the first place you would never have gone into the VITAB deal. Having done so, you should have come clean and said that it was wrong and you should have backed out of it. But you have fallen for the trap of trying to defend your initial decision - and it was your decision. By your own admission, it was your decision. You can try now to lay the blame on your public servants and the people at ACTTAB and the like, but you did acknowledge that it was your decision. Having made that decision and having stood by that decision through hell and high water, which is what you have done, you have laid yourself open to this motion, Minister, and you really have to live with the consequences, I am afraid.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (5.03): Madam Speaker, I understand that Mr Cornwell is going to speak. I am perfectly happy to hear him before I defend myself.

Mr Cornwell: I am quite happy to hear you, Minister.

MR BERRY: I just want to have the right to defend myself. If you want to speak - - -

Mr De Domenico: Off you go. Defend yourself. We are waiting.

MR BERRY: If you have more things to say, I would like to hear them. I am the one who is being attacked here.

Mrs Carnell: You can speak again.

Mr Moore: Minister, you heard Mrs Carnell's interjection. You can speak again.

MADAM SPEAKER: Could we have some order. Mr Berry has the floor.

MR BERRY: Madam Speaker, I think the first thing I would like to do is to demonstrate the level of inquiry which Mr Kaine referred to which was alleged to have been conducted by the Liberals. This shows the tone of the whole affair. I go to a letter from Mrs Carnell to the chairman of VITAB Ltd - listen to the date - on 29 March. That was after all the dirt had been thrown. All the mud was hanging off everybody. The letter reads:

I am writing to ask if you could furnish the ACT Opposition with a list of all the Directors, Board Members and shareholders of your companies, VITAB Limited (registered in Vanuatu), Gaming Management International Pty Ltd and Kolcorp Pty Ltd (both incorporated in Australia).

It would also be appreciated if you could shed some light as to whether there is any relationship between VITAB Limited and two other companies which are incorporated in the Republic of Vanuatu. These companies are Oak Limited and the Pacific International Trust Company.

Any information -

and so on. Mrs Carnell, on 29 March, decided to ask VITAB about some of their private affairs, after all the mud had been thrown at their directors and anybody else associated with the company. Of course, VITAB responded to that. We have received a copy of the response. They acknowledged receipt of the letter and they went on to say:

We note that this is the first occasion that you or your colleagues have sought any contact or information on or from Vitab. Much of the information requested is a matter of public record. The many statements that you and your colleagues have made imply that you have a detailed knowledge of Vitab and its operations.

They had not contacted them once before. The letter went on:

This is clearly at odds with your letter.

Of course, your letter admits that you know nothing, yet you are prepared to throw mud. The letter continued:

We are also very concerned that your letter may be construed as an attempt to circumvent the independent inquiry.

Funny, that! The letter further stated:

If this is so, then we view this as a very serious matter indeed.

We have forwarded a copy of this letter to the Chief Minister of the ACT and have requested that your letter and our response be forwarded to the Chairperson of the Inquiry.

That demonstrates the tone of the whole Liberal thrust in this matter. This is a game of politics where you throw as much mud as you can and see whether some of it will stick.

There are other people who have been blackened in this process. The first one I will go to is, of course, a Mr Bartholomew. Much has been said about Mr Bartholomew being at a place where a Mr Tripp was once - over here at the Hyatt Hotel - as if there were some criminality that fell on the Government or Ministers of the Government as a result of that. There was also reference to the Costigan royal commission. Bartholomew was mentioned right through that, but not once did it mention that he was charged or convicted in relation to that matter so - - -

Mrs Carnell: Bartholomew was convicted in 1981 and 1982.

Mr De Domenico: Bartholomew has been convicted twice.

MADAM SPEAKER: Order! Mrs Carnell was heard in silence.

MR BERRY: No; I am talking about in relation to this. You say that I have been misleading you in relation to Bartholomew. The royal commission stuff that you have referred to yourself does not make any reference to convictions of Bartholomew, does it?

Mr De Domenico: No.

MR BERRY: No; that is right. That is clear. In relation to - - -

Mr De Domenico: So?

MR BERRY: Just wait until I am finished.

MADAM SPEAKER: Mr De Domenico, I have asked you to listen to the Minister in silence as the Minister listened to Mrs Carnell in silence.

MR BERRY: In relation to advice on matters in relation to criminal records, I have received a copy of a letter from Assistant Commissioner Dawson, the Chief Police Officer for the ACT. It goes to the issue of the circumstances under which information can be provided on whether a person has a criminal record and, if so, whether he could provide the details of that criminal record. It says:

According to oral advice to the AFP in October 1993 from Human Rights Branch, Civil Law Division, Attorney-General's Department (Commonwealth), I am able to provide you, in your official capacity as Attorney-General for the ACT, with the criminal record of a person upon your request or at my own behest. Similarly, I can provide you with a statement that a person is not known to have a criminal record. I am precluded, however, from providing you, in any other of your official capacities, with a criminal record of a person unless the release of that information is provided for by one or more of the exemption provisions of the Privacy Act 1988.

So there are some very strict fences around the provision of this sort of information. I go back to Mr Bartholomew. Somebody amongst your speakers has tried to imply that Mr Bartholomew was a director or a shareholder or something with VITAB. Mr Bartholomew is not a director. He met and I met - I did not; he met briefly with - - -

Mr De Domenico: Did you meet with him?

MR BERRY: No. I withdraw that.

Mr De Domenico: Oh! You withdraw that.

MADAM SPEAKER: Mr De Domenico, let Mr Berry complete his sentences.

MR BERRY: I did not meet with him. I make that clear. He met briefly in the course of the negotiations which led up to the arrangement with VITAB, but Mr Bartholomew is not a director. But you blackened his name well and truly. The Liberals made some reference to Mr Bartholomew as if there were some criminality on the part of the Government for a meeting having been held with him at one stage. That is absolute nonsense.

The ACT Magistrates Court, in a telephone conversation of 12 April, today, have confirmed that an examination of the records of the court for the period from 5 August 1991 to date indicates that Peter James Bartholomew is not recorded as having been a party to any proceedings in the court commenced by an information pursuant to section 25 of the Magistrates Court Act 1930. I table that, Madam Speaker.

Mrs Carnell: How about 1981?

Mr De Domenico: How far back does that go?

Mrs Carnell: We did not hear you.

MR BERRY: You can have a look at the document yourself. There has also been some effort to blacken the name of Mr McMahon, and of course every effort has been made by the Liberals to blacken anybody within range of them. Throw a bit of mud and a little bit will stick, and perhaps a little will stick on the Government. That is the aim. I have in front of me, Madam Speaker, a letter from the Australian Federal Police. It is a police certificate relating to a name check only. In respect of Cornelius Joseph McMahon, whose address is given, it states:

This is to certify that the above named is not recorded in the Criminal indices of the Australian Federal Police.

Mrs Carnell: What about the Victoria Police?

MR BERRY: That is cleared from the Australian Federal Police, as far as the Government is aware.

Mrs Carnell: It was the Victoria Police Force.

MADAM SPEAKER: Mrs Carnell, I remind you that you were heard in silence. Order!

MR BERRY: That is the sort of information that comes into the hands of the Government. We are very careful about issues of privacy. The Opposition are not and they do not care, but I do, and I am not very happy about the way that these people have blackened the names of individuals that may have been associated in one way or another with the lead-up to, or part of, the arrangement between the ACT Government and VITAB. I table that letter too, Madam Speaker. I would now like to go to Mr Michael Dowd. There has been an attempt to blacken Mr Dowd as well.

Mr Humphries: How has there been? I raise a point of order, Madam Speaker. No-one on this side of the chamber has made any reference to the personality or the character of Mr Michael Dowd.

MADAM SPEAKER: It is not a point of order, Mr Humphries.

Mr Humphries: We have said that he is not a director of VITAB.

MADAM SPEAKER: There is not a point of order before me, Mr Humphries. Order! Continue, Mr Berry.

MR BERRY: Thank you, Madam Speaker. I have this statutory declaration from Mr Dowd:

I, Michael Dowd, of Anchor House, Kumul Highway, Port Vila, in the Republic of Vanuatu, do solemnly and sincerely declare as follows:

Neither I nor any company in which I own shares has any interest in the business conducted by Mr Alan Tripp in Vanuatu ...

Remember trying to blacken Mr Dowd in relation to the Numbawan Betting Shop, trying to associate people with the Vanuatu betting shop called the Numbawan Betting Shop?

Mr Humphries: I did not say anything about that. That is not so. That is a lie, Wayne. That is a lie.

Mr Wood: I raise a point of order, Madam Speaker. Mr Humphries will need to withdraw that.

MADAM SPEAKER: Mr Humphries, I ask you to withdraw that.

Mr Humphries: Madam Speaker, it is not true. No-one said anything of that kind - - -

MADAM SPEAKER: I have asked you to withdraw. Mr Humphries, you have been asked to withdraw. You will withdraw.

Mr Humphries: In deference to you, Madam Speaker, I withdraw.

MADAM SPEAKER: Thank you.

MR BERRY: I will go through that paragraph again. It reads:

Neither I nor any company in which I own shares has any interest in the business conducted by Mr Alan Tripp in Vanuatu known as "Numbawan Betting Shop" or any other business conducted by Mr Alan Tripp or by any company of which he is a director.

I make this solemn declaration by virtue of the Oaths of the Republic of Vanuatu, conscientiously believing the statements contained in this declaration to be true in every particular.

Madam Speaker, I table that statutory declaration as well. What we are doing is clearing a few of the people involved here from the mud that has been slung by the Liberals opposite. It is a necessary process even though, Madam Speaker, it is I who am under attack.

I would also like to draw attention, Madam Speaker, to a document I have in front of me. Though it is stamped "Confidential", I am advised that I am able to table it. It contains the minutes of a meeting of VITAB Ltd in relation to the deal with ACTTAB. Present at that meeting were Mr Kolomanski and Mr McMahon. On a quorum being established and the meeting being opened, it was resolved that "Michael John Dowd is hereby appointed a Director of Vitab Limited". Funny, that!

Ms Follett: I think Mr De Domenico is apologising.

Mr De Domenico: No, I am not. I am just listening to what he has to say, because he might hang himself again.

MR BERRY: You have accused me of misleading this place on the basis of Mr Dowd not being a director. I have in front of me a piece of paper dated 10 October that makes it clear:

It was resolved that Michael John Dowd is hereby appointed a Director of Vitab Limited.

Mr Humphries: It does not make him a director. You have to have registered it before you do that.

Mr De Domenico: Is he a registered director?

MADAM SPEAKER: Order!

Mr Wood: I take a point of order, Madam Speaker. As you have indicated from time to time, the Government has heard the Opposition in silence, treating this debate as a serious one, and I know that you have affirmed your wish for that to occur. The Opposition have the means, if they so choose - when Mrs Carnell replies, she has that right - to raise issues if they wish. I urge upon you to continue your restraint of the Opposition members.

MADAM SPEAKER: I would advise members in the Opposition to heed that point of order. Continue, Mr Berry.

MR BERRY: Madam Speaker, the information in front of me clarifies that, at least on 10 October 1993, Michael John Dowd was a director of VITAB Ltd, or had been appointed so. It was also resolved at that meeting that VITAB enter into an agreement

with ACTTAB to provide totalisator pooling and other betting support services to VITAB. I table that document as well, Madam Speaker, for the information of members.

There is one other matter that I would like to raise. Mrs Carnell made great sport out of a letter which was directed from me to Mr Neck on 22 October 1993 in relation to the seeking of my agreement to a contract with VITAB Ltd for the provision of betting services. She made great play of the issue that she claimed it was a direction from me and was therefore required to be tabled in this Assembly, but of course that is again part of the misleading campaign which is being run by the Liberals and has been run by the Liberals from the outset.

Let us not forget, Madam Speaker, that this all began when the Government moved to decorporatise ACTTAB. There was much wailing and screaming from those opposite, and I trust that their judgment will not be impaired merely as a consequence of their opposition to that first move. I trust that their judgment will not be impaired merely as a consequence of the Government's decision to move down that path. From that day forward, you have been antagonistic towards ACTTAB and any of its achievements. Section 7 of the Betting (Totalizator Administration) Act 1964 states:

(1) The functions of the Board are -

(a) to conduct or provide totalizator betting services -

(I) in respect of races and other sporting events held within or outside the Territory - by operating its own totalizator; and

(ii) by agreement with a body in a State or another Territory that is authorised by a law of that State or other Territory to conduct or provide off-course totalizator betting in that State or Territory;

(b) to conduct lotteries;

(c) to act as an agent of the person conducting a lottery for the sale of tickets, or shares in tickets, in a lottery; and -

listen to this one -

(d) with the written approval of the Minister, to provide other services relating to betting.

(2) In addition to the functions of the Board under subsection (1), the Board has such other functions and duties as are conferred on it under this or any other Act.

Let us go back to (d), which says:

with the written approval of the Minister, to provide other services relating to betting.

So, Mrs Carnell, you have attempted to mislead again, because you have tried to make out that this was a direction, and I have to say that I have received clear advice that this document is an approval. This is what the letter says. Had Mrs Carnell read the letter, she would have read these words:

This approval is given pursuant to Section 7(1)(d) of the Betting (Totalizator Administration) Act 1964.

Why distort it? There is no need to distort it. The letter itself tells you the story. The Act tells you the story. So there we have it. This is just another of the distortions that we have been forced to tolerate as a result of the antagonism - dare I say it - of those members of the Opposition who have some sort of a fixation about ACTTAB and the Territory.

There are a number of other specific allegations that I misled the house, but before I respond to them it is important for me to once again recount the events relating to and after the signing of the VITAB agreement. I do this so that the facts of this matter are laid before the house clearly and so that members can come to an objective view about the matter - a view which cuts through the assertions, half-truths and smokescreen which have been presented by the Opposition throughout this matter.

In looking at this issue it is important that members have an appreciation of where the racing industry is heading in this country and how TABs throughout the country are meeting the challenges of increased competition for the gambling dollar. In essence, there is a move to export Australian racing to Asia and the USA. In June 1993 the Victorian TAB established an operation in Vanuatu to receive bets from Asia and the Pacific. Recently there have been reports of Sky Channel providing punters with live telecasts of New South Wales races through a satellite link to the New South Wales TAB. It was against this background of major change in the nature of the racing and gambling industry in Australia that the ACTTAB-VITAB agreement was pursued by ACTTAB.

In late June 1993 - Mr Kaine, you asked to hear all this, so I will present it to you - VITAB approached ACTTAB regarding the possibility of providing computer facilities for their proposed Vanuatu based betting agency. I understand that on 14 July 1993 the chief executive of ACTTAB presented a paper to the ACTTAB board - the independent ACTTAB board, but they are a statutory authority - detailing the proposed arrangement with VITAB and seeking their agreement to proceeding with further discussions. On 22 July, following advice from VITAB that ACTTAB was the preferred TAB, the ACTTAB board discussed the matter. I am advised that the board of ACTTAB agreed at that meeting that they should continue negotiations with VITAB and seek my approval for the project. Of course, I take you back to the approval which was given pursuant to section 7(1)(d) of the Betting (Totalizator Administration) Act and to the attempt at throwing some more mud which was made by Mrs Carnell earlier on. There we have it. This matter, of course, was one of some significant benefit to the Territory.

ACTTAB first raised the VITAB proposal with me on 22 July 1993 in a submission from its chief executive, Mr Philip Neck. I met with Mr Neck on 23 July 1993 and agreed that a process should be set in place to investigate the VITAB corporation and that the agreement should be referred to the ACT Treasury and to the ACT Government Solicitor for advice on its financial and legal security for the Territory. That is where I personally moved to make sure that it was safe. That was on 23 July 1993. So there you see it. This was the move to get it checked by higher authorities within the Government Service.

On 29 July 1993 I was advised that the ACT Treasury supported the proposal, subject to satisfactory responses to a number of questions they raised concerning the draft agreement. The Treasury subsequently advised that ACTTAB's responses to their questions were satisfactory. I understand that between 12 August and 13 September 1993 ACTTAB and VicTAB - the Victorian TAB - exchanged correspondence and held several meetings concerning VITAB's participation in the superTAB pool. On 10 September 1993 - and this is a very important point - a meeting was held between the executive directors of ACTTAB and the Victorian TAB, Messrs Neck and Walker, and two of VITAB's directors, Messrs Kolomanski and McMahon. I understand that as a result of this meeting agreement was reached for VITAB to participate in the superTAB pool. Let us not lose that. There was a meeting between VicTAB, ACTTAB and two people from VITAB, and as a result of that meeting agreement was reached for VITAB to participate in the superTAB pool.

During the first half of October there were various discussions and exchanges of correspondence between the ACT Government Solicitor, ACTTAB and ACTTAB's solicitors. During that process the draft agreement was progressively refined to meet the requirements of the Territory - all about making it safe. On 19 October 1993 the Department of the Environment, Land and Planning provided a brief advising that the agreement had been developed to the satisfaction of both the ACT Treasury and the Government Solicitor's Office and recommending - recommending to me - that I agree to ACTTAB signing the agreement. I tabled that advice, as all members would appreciate, on 2 March 1994.

On 22 October 1993 I gave my approval to ACTTAB entering into the arrangement with VITAB - that is, the approval which is mentioned in the letter of 22 October 1994, pursuant to section 7(1)(d) of the Betting (Totalizator Administration) Act 1964. That is the one, Mrs Carnell, that you would remember you played a little game with. ACTTAB's agreement with VITAB was announced at a press conference held on 8 November 1993. On 31 January 1994 the Victorian TAB gave formal notice to ACTTAB that it was terminating its link with the ACTTAB. This followed discussions on this matter between ACTTAB and VITAB earlier in January. At no time has VicTAB ever given reasons for the termination. Madam Speaker, these are the facts.

There are a number of key issues arising from these events which also require some comment. Firstly, the representatives of ACTTAB and VITAB clearly had an understanding on the basis of meetings and correspondence with VicTAB that VITAB could gain access to the Victorian pool.

Mrs Carnell: Table it.

MR BERRY: These discussions commenced on 12 August and concluded on 13 September 1993 - well before the contract was signed.

Mrs Carnell: Table it.

MR BERRY: Madam Speaker, despite the interjections, I seek leave to table a statutory declaration from ACTTAB's chief executive, Mr Neck, in relation to the key meeting of 10 September 1993.

Mrs Carnell: What about the letter from VicTAB?

MADAM SPEAKER: You may just table it, Minister. Mrs Carnell, I would ask you to cease interjecting.

MR BERRY: Madam Speaker, whilst I have tabled that statutory declaration, I will go through the tedious process of referring to it, because it is an important piece of information. Mr Neck, of course, has made the declaration. He declares himself as the chief executive officer. He talks about on 11 April 1994 asking Mr Kolomanski, a director of VITAB Ltd, "whether at the time VITAB was negotiating with ACT/TAB it had also been negotiating a similar arrangement with the Queensland TAB". He goes on to say:

He confirmed to me that those negotiations with the Queensland TAB to provide similar off-shore betting services to VITAB had continued up to the time when the ACTTAB/VITAB Contract was signed on the 22nd October 1993.

In August 1993, during negotiations with VITAB, Mr Kolomanski asked ACT/TAB to confirm that there was access to the Victorian TAB super pool. On the 12th August 1993 I contacted the Chief General Manager of the Victorian TAB, Mr Neil Walker, and advised him that ACTTAB was negotiating a contract to provide off-shore betting services to VITAB and that it was the intention that these bets be pooled with ACT/TAB's other bets into the Victorian TAB super pool. Later on the 17th August 1993, Mr Walker requested confirmation of certain matters.

There is a copy of a letter in relation to that, and I will come to it shortly. On 1 September Mr Neck faxed to Mr Walker a reply containing the information he had requested in respect of VITAB, and a copy of that letter is attached to the statutory declaration. On 9 September Mr Neck flew to Melbourne and arranged to meet with Mr Walker at 3.00 pm to discuss the VITAB proposal. He goes on to say:

Mr Walker told me that it was not the Victorian TAB position to inhibit another TAB's commercial ventures.

That is what ACTTAB was told. Mr Neck further states:

To ensure that Mr Walker and the Victorian TAB were comfortable with the owners and Directors of VITAB Limited, I arranged at 1.00 pm the following afternoon for Mr Dan Kolomanski and Mr Con McMahon (both Directors and shareholders of VITAB Limited) to meet with Mr Walker. Discussions took place in respect of the establishment of VITAB Limited and the matters raised in Mr Walker's fax of the 17th August 1993. All the matters raised were individually discussed and answered satisfactorily.

Messrs Kolomanski and McMahon wished to be sure that the Victorian TAB would not object to the competition with the Victorian TAB's own Vanuatu operation. Mr Walker replied with words to the effect that the Victorian TAB did not see this competition as a problem and stated that his organisation would not act in such a way so as to disadvantage VITAB Limited in relation to competition with the Victorian TAB's Vanuatu betting office.

Messrs Kolomanski and McMahon raised with Mr Walker the possibility of other issues that he may have concerns about with VITAB Limited but he raised no difficulties and at the conclusion of the meeting I believed that there was no objection to the continuing pooling arrangements with the Victorian TAB which would include the bets that VITAB Limited would place into the pool via ACT/TAB.

In relation to VicTAB, there is a letter from Mr Walker to Mr Neck. He says in his letter that before he put this proposal to his board he would appreciate confirmation of a range of issues, and I will go through those as follows:

That VITAB Limited is licensed to operate a totalisator in Vanuatu ...

That the purpose of the service is to solicit investments from customers in countries other than Australia.

That ACTTAB will subject the operation to regular audits to ensure its probity and conformity to Commonwealth AUSTRAC legislation.

That ACTTAB would guarantee settlement of any funds due to VICTAB as a result of the operation of the service.

That the operation would not solicit investments from existing VICTAB customers.

In relation to the information requested, Mr Neck provided a response from VITAB in the following letter:

Please note, our solicitors -

he mentioned their name -

are conducting full investigations ...

When this information is available I will forward it to you ...

As regards point 3, he said that he wanted further information. A letter from the Hon. Willie Jimmy is also attached to that correspondence. The Hon. Willie Jimmy states - - -

Mr Humphries: Who is he?

MR BERRY: From Vanuatu. He is the Minister of Finance. His letter states:

I am pleased to inform you that your business licence application to operate a gambling operation by way of Horse Betting (TAB) in Vanuatu is hereby approved.

He goes on to talk about some other arrangements. We are going to have to go right through this. I know it is tedious, but we are going to have to go right through this because I think it is all very important. A letter from VITAB to Mr Philip Neck reads as follows:

Please accept my apologies for not sending this letter earlier.

In regard to VicTAB; we have a contractual arrangement with ACTTAB and as VicTAB is currently being considered for privatisation, we wish all corporate information, confidential information, audits and probity checks to be conducted by our counter-party (ie: ACT/TAB).

In relation to VicTAB's specific requests:

VicTAB Limited is a Licensed Totalizator Operator in Vanuatu ...

I mentioned the approval earlier on. The letter goes on:

2. The principal objective of VITAB Limited is to establish a betting clientele principally from customers in countries other than Australia.

That is what I have told this Assembly before. It continues:

However, please note that when transactions are processed in Vanuatu we may not be aware of the source of the bet and we will be accepting bets from Australia.

3. Would ACT/TAB please advise of the process of regular audit for probity and conformity to Commonwealth AUSTRAC legislation. In principle we have no objection to ACT/TAB audits. However, client confidentiality must be preserved by VITAB.

4. ACT/TAB to guarantee settlement to VicTAB.

5. VITAB will not directly solicit betting investments from existing VicTAB or ACT/TAB customers. VITAB cannot guarantee that existing customers will not bet with VITAB, for reasons stated in Item 2.

6. VicTAB must not act to disadvantage VITAB in relation to competing with the Vanuatu VicTAB agency.

7. VITAB is prepared to authorise ACTTAB to disclose certain information to VicTAB, but VicTAB must first acknowledge -

and so on. This explains a lot of the issues which, of course, were discussed in the lead-up to the development of the contract. You will also appreciate that a further letter was written by VITAB in relation to inducements - and I think their position is pretty clear - subsequent to that one.

I think that statutory declaration in relation to that key meeting clarifies the position of ACTTAB and VicTAB at that point. Why was it then that, despite all of these discussions and the subsequent public announcement of the agreement in early November, VicTAB decided to terminate the link with ACTTAB at the end of January 1994 in contravention of the agreement reached in September 1993? Do the Liberals know?

Under the circumstances, could VicTAB's total about-face have been foreseen? I do not think it could have been. Secondly, the draft VITAB agreement was developed on ACTTAB's behalf by the legal firm Macphillamy Cummins and Gibson, which is a member firm of the Australian Legal Group and which is recognised nationally for its expertise in commercial law. Of course, the agreement was scrutinised and further refined by the ACT Government Solicitor's Office and also reflected advice from ACT Treasury. At no time did any of these agencies raise concerns about the financial or commercial security of the agreement for the Territory.

Madam Speaker, members of this Assembly have raised a number of specific concerns about the agreement and comments I made in relation to it. I see these as including the status of directors and shareholders of VITAB and in particular Oak Ltd. I referred to that a little earlier and I think that matter has - - -

Mrs Carnell: Has it?

MR BERRY: I have referred to Mr Dowd's position as a director. Of course, the other issues are the bona fides of the directors and shareholders of VITAB, whether ACTTAB was in competition with other TABs for the VITAB agreement, the issue of inducements, the alleged involvement of Mr Bartholomew and in turn his relationship with Mr Tripp, and in particular the reasons for commenting on the safety and benefits of the agreement with VITAB following the notice of termination by VicTAB. I will address each one of those six matters in turn.

In relation to the first issue, relating to the status of the directors and shareholders, there is an allegation that I have misled the house in relation to who the directors of VITAB are. The facts are that at the time the agreement was signed VITAB had advised that its directors were Messrs Kolomanski, McMahon and Dowd and that its shareholders were Kolomanski and McMahon. A company search conducted by Price Waterhouse in September 1993 also indicated that Oak Ltd was recorded as a director of VITAB. The Opposition now has raised the question of whether one of the directors of Oak Ltd is the Pacific Island Trust Co., which allegedly specialises in the setting up of tax havens. If the matter is of any relevance, it will be considered by the inquiry, of course. Advice provided by Macphillamys states that Oak Ltd is a local director of the company and is to be replaced by a Mr Dowd upon receipt of his Vanuatu residence status.

Mrs Carnell: So he was not a director?

MR BERRY: Oak Ltd is a local director of the company and is to be replaced by Mr Dowd upon receipt of his Vanuatu residence status. I understand from ACTTAB that the reason Mr Dowd does not show up on the corporate records in Vanuatu is that VITAB has been tardy in notifying his appointment to the registrar in Vanuatu. I provided you with the record of the meeting. I also understand that the board of VITAB appointed Mr Dowd as a director of VITAB, as I showed to you, on 10 October 1993. You have the document.

The second issue related to the checking of the bona fides of directors and shareholders of VITAB. I requested ACTTAB on 23 July 1993 to undertake a full check of the company and its principals and shareholders. It was not until February 1994 that I learnt from ACTTAB that they had commissioned Price Waterhouse to undertake the required company check in September 1993. I also learnt at that time that they had not yet obtained the personal checks which I had requested in relation to the directors and shareholders. I immediately at that time requested that the required character checks be obtained through the Australian Federal Police. Whilst I acknowledge that it is unsatisfactory that ACTTAB had not undertaken these checks prior to the contract being signed on 22 October 1993, the AFP advised ACTTAB's solicitors on 17 March 1993 that Messrs Kolomanski and McMahon were not recorded in their criminal indices and Mr Dowd was not adversely recorded in their criminal indices.

In relation to the financial security of the directors, the contract provides for a security bond of $50,000 to be held in the name of ACTTAB. Additionally, two directors provided performance guarantees for VITAB's obligations. Further, any changes to the company's directors or changes of shareholding greater than 5 per cent need to be submitted to ACTTAB for approval. On 21 January 1994 VITAB submitted a request for the approval of five new shareholders for VITAB. Macphillamys have arranged for company and police checks on the proposed shareholders. I think I have mentioned this in the past. As I have previously advised the Assembly, no approvals will be given until all of the required checks prove to be satisfactory. I believe that it is clear that, whilst the appropriate police checks were not carried out, the record shows that I responded quickly to have the matter rectified. All checks of VITAB have proved satisfactory. So we can stop blackening the names of these people. There is no point in it any more.

I pass now to the third issue - that is, whether ACTTAB was in competition with other TABs for business. Recent press articles - although one is a little different - have cast some doubt on whether ACTTAB was in fact competing against other TABs for the VITAB agreement. As a result there may be some members who think that I may have misled the Assembly on this issue on previous occasions. The press article I refer to was on the front page of the Canberra Times, as I recall it, but a following edition further back in the paper mentioned that there was some competition and that that advice came from Mr Neck's statement and from Mr Hawke's statement. For the Liberals to continue to go down that path just proves that they do not read far back into the Canberra Times. I think that made it fairly clear. If you want to have another look at it, you might refer to the 26 March 1994 edition of the Canberra Times.

I need to make the following points. The chief executive of ACTTAB, Mr Neck, advised me by letter on 27 July 1993:

... there is strong competition for the VITAB contract ...

The Rt Hon. Bob Hawke - - -

Mr De Domenico: No; he is not the Rt Hon. Bob Hawke.

MADAM SPEAKER: Order! I remind members once again that Mr De Domenico and Mrs Carnell were heard in total silence. Their discourtesy now is becoming a little tedious. There will be order.

MR BERRY: The Hon. Bob Hawke, on 8 November in his speech at the launch of VITAB, said that "ACTTAB was selected by VITAB above a number of Australian TABs". Nobody would be surprised, then, if I were to say that there was some competition amongst other TABs. A statutory declaration by the chief executive of ACTTAB confirms that Queensland TAB were competitors for the VITAB offshore betting arrangement.

A further statutory declaration from a departmental officer, Mr John Meyer, attending a meeting of racing officials on 6 December 1993, confirms that Mr Dick McIlwain, the then chief executive of the Queensland TAB, said that the Queensland TAB would have been prepared to enter an offshore arrangement subject to the required legislative changes and provided the price was right. So there was competition. You claim that I have misled this chamber by saying that there was competition. There was competition, and I think that proves it. I can table sufficient copies of that statutory declaration so that members can look at it. Madam Speaker, I have already tabled the statutory declaration by the chief executive officer of ACTTAB. Of course, that statutory declaration gives further support to the argument. Based on the above advice and evidence, I think I had a reasonable basis for saying that ACTTAB was in competition for the VITAB agreement. I have not misled this Assembly on this aspect of the matter. It is crazy to say that.

The fourth issue is the issue of inducements and whether the VITAB agreement opened up the possibilities for Australian TAB customers to be induced to bet with VITAB rather than Australian TABs. The issue of inducements has long been an industry-wide issue in Australia. It has been the subject of discussion at various meetings of TAB chief executives and at racing Ministers forums. Principally, the issue relates to interstate TABs and their agents offering inducements to punters in other States and Territories. These inducements may range from refreshments at TAB outlets through to the provision of dedicated computer lines and associated equipment.

The Opposition first raised the issue of inducements in the Assembly in the November sittings. In response, on 23 November I tabled a written undertaking - this is a very clear undertaking - provided by VITAB that they would not be offering inducements. Did you mention that in that advice earlier on, Mr Connolly? Yes, of course. I tabled a written undertaking provided by VITAB that they would not be offering inducements to Australian punters.

In this context the Opposition also sought to gain considerable mileage from a meeting of racing officials held in Sydney on 6 December 1993. Contrary to the rumour mongering - and that is all it was - of the Opposition I have been advised by ACT representatives attending the meeting that the meeting was not called to discuss the VITAB agreement but to discuss the issue of inducements offered by State TABs within Australia. I emphasise "within Australia". Whilst Queensland and New South Wales raised concerns about offshore arrangements, the meeting agreed only that the situation should be monitored. At this stage only VicTAB had offshore links, and ACTTAB had an offshore link through VITAB. I think that is pretty clear.

You talked about your legal advice in relation to inducements and how one party to an agreement might take on another party, or not be able to, in relation to the letter. "If it could be shown" - this is your own advice - "that ACTTAB had taken steps against its interests or incurred obligations after the date the letter was received and in reliance on the statements of intention in it, and if damages could be shown to flow from reliance on those representations rather than on the terms of the agreement, there may be a right to damages to the ACTTAB".

Mr Connolly: So it is not legally meaningless?

MR BERRY: It is not legally meaningless.

Mr Connolly: It is potentially actionable.

MR BERRY: It has potential for action. You just cannot deny those facts. The concern about VITAB offering inducements to Australian punters is, of course, not borne out by the evidence. It is all right to throw the mud, but you really have to produce the goods, and the Liberals have not produced the goods. ACTTAB's Australia based turnover has continued to increase at over 6.4 per cent since the commencement of the VITAB operation. So why hammer it? It is doing all right, with a rate of increase slightly higher than in the period immediately prior to the commencement of VITAB operations.

Similarly, no other Australian TAB has put forward evidence that they have lost clients because of offshore betting operations related to VITAB. In fact, turnover in all of the States and Territories has continued to increase over the last 12 months or so since the commencement of Victoria's TAB branch and VITAB's operation in Vanuatu.

The issue of inducements is not a matter that is generally covered in contracts between TABs. Nevertheless, VITAB has provided a written undertaking that it will not knowingly seek the business of Australian resident customers by way of rebate, any other inducement or any other similar means. In addition, VITAB require new clients to sign a declaration warranting that "all bets are placed by me outside Australia".

ACTTAB is also in a position to scrutinise VITAB's transactions through its computer system. The TAB can obtain full details of all bets placed, the account on which bets were placed and the name of the account holder. I believe that this is an added means by which the integrity of the arrangement can be monitored. The issue of inducements provides an excellent example of the hypocrisy and humbug perpetrated by the Opposition on this issue. They have persistently said that I have withheld information and they have insisted that there is some problem related to inducements within the VITAB agreement and that I have misled the Assembly on this issue. The Opposition, as we all know, some weeks ago sought the intervention of the Auditor-General, who, with the full cooperation of ACTTAB, reviewed the issue. The Opposition has refused to release the Auditor-General's assessment but has insisted that there is some issue in this matter. I think the Assembly has some entitlement to see the letter, particularly bearing in mind the consequences.

Mr De Domenico: Did you write to the Auditor-General?

MR BERRY: I think the Assembly is entitled to see the letter. The fifth issue relates to the alleged involvement of Mr Bartholomew and, in turn, his relationship with Mr Tripp. I raised this matter earlier, but I will go over it again. I outlined the position, as I understood it, to the Assembly on 22 February 1994. These matters, in my view, are rightly for the independent inquiry to consider, and I do not believe that it would be appropriate to review them here.

I now come to the final issue which the Opposition has raised over my statements concerning the safety and benefits of the agreement with VITAB following the notice of termination by VicTAB. We have to make clear that VicTAB have given notice of termination. The language of the Liberals, of course, tried to give the appearance that it was gone. It is not gone. They have given notice of termination. There will be a lot of legal interest in this matter, and one has to be a little careful that one does not prejudice either our case or somebody else's in this place by making statements in relation to the matter. I think it is fair to say that there will be a lot of legal interest in the matter. But the link still lives.

The Opposition has said a great deal about comments I made in the Assembly during February about the safety and benefits of the agreement following the notice of termination by VicTAB. I think at the outset members should carefully consider what I have said, because those comments relate specifically to the benefits of the ACTTAB-VITAB agreement, which is quite separate from ACTTAB's arrangement with

VicTAB. I have sought to emphasise that the benefits of the VITAB agreement will provide significant returns to the ACT community in the first twelve months and in future years. Already the Territory has received some $50,000. That is a good deal. We have returned our investment many times over, and if it ended tomorrow it would still be a good deal. If it ended tomorrow there still would be $50,000 safe in the bank. There will be more money flowing from the deal. It is extra revenue for the ACTTAB and for the Territory, and a further $50,000 is projected through to 30 June 1994. So of course it is a good deal. There is no question about it being a good deal, because it returns profit to the Territory.

The VITAB agreement was framed by both ACTTAB's solicitors and the ACT Government Solicitor and, taking account of Treasury's view, if you look at the arrangement by itself, it is returning money to the Territory. It was examined and cleared as safe by Treasury and the Law Office.

Mr De Domenico: They approved it, did they?

MR BERRY: They recommended that it be agreed to, and it was signed by ACTTAB. The VITAB agreement, as framed by both ACTTAB's solicitors and the ACT Government Solicitor, and taking account of Treasury's views, provided the necessary financial security for the Territory in relation to the arrangements with VITAB. Examples of provisions included in the VITAB-ACTTAB contract which give full financial protection to the Territory include provisions for weekly settlements, cash funds in an ACTTAB bank account, and personal performance guaranteed by the directors. That sounds pretty safe to me. Based on all of this, I said that the agreement with VITAB was beneficial to the Territory, and I think it has been.

Let me now turn to the quite separate question of the VicTAB notice of termination. I firmly believe that it would have been irresponsible, premature and damaging for me to have made an earlier announcement on VicTAB's decision to terminate its link with the ACT. Bear in mind all the mud slinging that was going on by those opposite, bear in mind their lack of commitment to the Territory's own TAB, and bear in mind the damage that they are prepared to do just to get a headline. I think we had to be very careful with the approach we took on this matter. In the first place, VicTAB's notice gave no reasons for the termination. In discussions with VicTAB's chief executive in early February, the chief executive of ACTTAB was led to believe that VicTAB would consider retaining the link with ACTTAB under certain specific conditions. In spite of this undertaking, VicTAB merely confirmed that it would uphold its earlier termination notice, and again gave no reasons for its decision on the matter. VicTAB confirmed its intentions on 14 February 1994.

At the racing Ministers meeting on 10 February 1994 I personally raised the issue with the Victorian Minister for Sport, Recreation and Racing, Mr Reynolds. You know him. Mr Reynolds expressed to me his concern about the possibility that VITAB may poach clients from VicTAB by offering inducements. I provided him with a copy of the letter from VITAB, as I recall. I indicated that we had not received a formal explanation from VicTAB as to its reasons for terminating the agreement. I again raised these concerns in

a letter to Mr Reynolds dated 10 March 1994. In that letter I sought the Minister's intervention in the matter. I specifically sought from him a statement of the reasons for the issue of notice and indicated our preparedness to "negotiate specific areas of concern". That is a responsible action. That was on 10 March 1994.

Mr De Domenico: Too late; he had already made up his mind.

MR BERRY: Mr De Domenico interjects, "Too late; he had already made his mind up".

Mr De Domenico: He said so to the Canberra Times, and to us in writing.

MADAM SPEAKER: Order! You will have an opportunity to speak again.

MR BERRY: The letter goes on to outline our concerns that VicTAB had not specified conditions under which ACTTAB could retain its pooling arrangements and concludes by my asking the Victorian Minister to "urge your TAB to commence immediate negotiations with ACTTAB". There could be no clearer evidence that on 10 March, when I signed that letter, I believed that there was still a very real prospect that the situation with VicTAB was recoverable. I am still waiting for a response from the Minister in relation to this matter, but I will table a copy of the letter to the Minister. There should be enough copies to go around.

During this period, ACTTAB's legal position in relation to Victoria's decision to terminate the agreement required careful consideration by ACTTAB's solicitors, Macphillamy Cummins and Gibson, and the Government Solicitor's Office. Members will appreciate that this is still a sensitive and complex legal issue, as I mentioned a little while ago, which requires further careful consideration by all of the parties. Given at that time VicTAB's continued refusal to negotiate conditions under which the link with ACTTAB might be maintained, I thought it was necessary to protect the interests of the Territory and requested ACTTAB to commence discussions with other state TABs. That was mentioned earlier, in the Liberals' speeches, I recall. As a precautionary measure we had to do something, and those discussions were commenced with a view to securing an alternative pooling arrangement.

During February and March, ACTTAB held a number of discussions with the South Australian, Queensland and New South Wales TABs. In the end result, New South Wales has expressed an interest in establishing a link with ACTTAB.

Mr Humphries: But not with VITAB.

Mr Moore: Is that with or without VITAB?

MR BERRY: I understand that that is with the New South Wales Minister at this point; we have not received his position in relation to the matter. That matter is not finalised as yet, so far as the Government is aware. The key objective in all of this was to explore our options as fully as possible without creating speculation which would undermine our efforts.

At all times I have given careful regard to our local interests. As soon as there was clear evidence of the possibility of alternative pooling arrangements, I made the appropriate announcement. I made it. I am the one you are accusing of keeping secrets. I was the one that made the announcement. I could have waited until this sitting of the Assembly.

Mr De Domenico: You could have waited until next year, too.

MR BERRY: I could have, but I made the announcement as soon as it was appropriate to do so. Mr Humphries criticised that during his speech, but I did it. I was the one that announced it. Thank you for the applause; it is warranted. There has been all this nonsense about keeping secrets. This is about making sure that the management of a business is not interfered with by politicians who have no interest in the business itself. All they have is an interest in their own particular political position and a couple of cheap headlines.

I know in my own heart that I have acted with absolute care and responsibility in this matter to ensure that the best interests of the Territory were protected and enhanced. Today's motion, in my view, is another example of what can be aptly described as the political game, political point scoring by the Liberals. Every time you have asked the question I have answered it. You have not always liked the answer - I accept that - and I do not make a practice of handing you the noose and saying, "Here; hang me". But the fact of the matter is that every time you have made accusations they have all been rebutted.

I think you have failed to come up with any evidence to suggest that the VITAB agreement is not beneficial to the ACT. We have the money in the bank. You have set out to undermine confidence in the TAB, and I think those efforts go back to the time when it was decorporatised and made a statutory authority of the Territory. It is clear by your actions that it goes back that far. In an attempt to clear the air, the Chief Minister has set up an independent inquiry. Of course, the Liberals want to pre-empt the findings of that inquiry; they want to set up a kangaroo court. I love that one: Hang the accused before any of the evidence has been taken. Never mind waiting until the verdict is delivered.

The history of this issue is one of the Liberals throwing mud which, when the blowtorch is on the belly, they are not able to substantiate. Too often the Liberals have been caught out with misleading statements, the unsubstantiated claim, and they repeatedly get their facts wrong. There is scant regard for the truth. Their whole approach to the VITAB agreement has been just another example of that. They have spent many months making accusations. I think they have all been refuted. I have consistently answered their questions - not to their liking, but I am not going to apologise because they have not been pleased.

We also have to think about where the Liberals are coming from, and I say again that this is about politics, with inaccurate claims by the Liberals and not much proof from the Liberals. They have claimed that I misled this Assembly. It is they who have misled not only this Assembly but also the people of the ACT over and over again, and that has been the way they have chosen to operate. I did not mislead this house. At all times I think I have acted honestly, responsibly, with integrity, and in the best interests of both

the ACT and ACTTAB. After all, the ACT's interests and ACTTAB's interests are connected. Unlike the Liberals, who I say have deliberately undermined the efforts of the ACTTAB and the interests of the Territory, I have at all times sought to safeguard and enhance the interests of ACTTAB and the Territory.

As evidence of the unhelpful way in which the Liberals have behaved in this matter and their intention to undermine ACTTAB, I would like to table a document from the Victorian Minister for Sport, Recreation and Racing which I think shows, at one level at least, the collaboration between the local Liberals and the Liberal Minister. I know from advice from Mr De Domenico that he was in close contact with the Victorian Minister. He told me so in front of a television camera one day. Mrs Carnell told me on ABC radio that she had been in contact with the Victorians as well. So here we have, dated 25 March, written evidence of collaboration between local Liberals and my counterpart in Victoria.

Mr Humphries: So we have caused it all, have we?

MR BERRY: I do not think we will ever get to the bottom of what the Liberals were doing. For example, did you go down to Victoria or did you phone them up and say, "Look, Mr Reynolds, we want to preserve the income from the ACT that is coming to us from VITAB. We would seek your support."? I will bet you did not. No way. It is more likely that you said, "We think we have got Berry cornered this time; give us a hand. I think there is enough room to speculate about the collaboration between you and the Victorian Minister. I suspect that I will never know why it was that VicTAB changed its mind.

Mr De Domenico: It is our fault, is it?

Mr Humphries: That is a disgraceful allegation.

MADAM SPEAKER: Order! You will have your opportunity to deal with that later.

MR BERRY: It seems to be striking close to the bone. Madam Speaker, I view this whole event as a rather deplorable one on the basis of the Liberals' behaviour. It began, as I mentioned earlier, with an attack on this Government arising from its move to decorporatise the TAB, and it has gone on from that date. There has never been any support for our local TAB from this group opposite. They have thrown lots of mud. They have made all sorts of accusations about me. I see this accusation about my misleading this chamber as another element of their campaign.

I understand that, and I expect that they would go after a scalp in political terms; but I trust that those other members in this place who have a different view of the world might consider this matter a little more closely than looking at the politics of it. I hope that they will. I repeat what I said earlier: I have always acted with honesty in relation to this matter and I think I have acted responsibly and with integrity. But, most of all, I have done it with the best interests of both the ACT and ACTTAB in mind. I have not been, like the Liberals opposite, just acting in my own political interests. Therefore this motion must fail.

MR CORNWELL (6.16): Madam Speaker, I think I should remind our somewhat paranoid Minister that we are not questioning his honesty, responsibility or integrity. What we are saying is that he has deliberately or recklessly misled the Assembly concerning matters relating to ACTTAB's contract with VicTAB. We are not questioning your integrity, Minister, though I must admit that I do not find much support for your position from your side of the house.

Members interjected.

MR CORNWELL: Madam Speaker, am I going to get the same silence in making my comments as you were seeking for other members?

MADAM SPEAKER: Perhaps there could be a little more order. Order, members!

MR CORNWELL: Thank you. It is noticeable that Mr Berry has not had much response and much support from his own side. Mr Berry has just spoken for 70 minutes, as he is entitled to do. He had 15 minutes from his Chief Minister in his defence, and some 20 minutes from Mr Connolly, if you could call Mr Connolly's comments a defence of Mr Berry. I, in fact, found Mr Connolly's remarks a rather arrogant homily on parliamentary practice which was directed at the Independents. I would question even the basis of that remark on parliamentary practice which he quoted from page 491 of Browning, which was as follows:

Proceedings before a royal commission or judicial inquiry shall not be referred to in motions, debate or questions where the matter inquired into concerns issues of fact or findings relating to the propriety of the actions of specific persons.

I would be quite prepared to debate on the basis that this motion has absolutely nothing whatsoever to do with the terms of reference of the Pearce inquiry. The Pearce inquiry, as we know, is to look into the agreement between VITAB and ACTTAB, the agreement between VicTAB and ACTTAB, the involvement of some people, not a specific person, and any other relevant matter. Mr Connolly tried to make the point that we were somehow transgressing the terms of reference for Professor Pearce by raising this motion today. I ask you, members of the Assembly: Would Professor Pearce, in his inquiry, be looking at whether or not Mr Berry, the Minister, has misled this Assembly? I put it to you that I do not believe that he would be. I do not believe that the good professor would regard that as part of his terms of reference. It is, however, a very proper matter for this Assembly to consider because we are the people most affected by the Minister deliberately or recklessly misleading this body, of which we are all members, in relation to ACTTAB's contract with VITAB Ltd.

I was interested also in the argument put forward at one point by the Chief Minister, and again I think it demonstrates the lack of direction of the Government in trying to defend Mr Berry - one could almost say "defend the indefensible" - because at page 4 of Mr Berry's statement on the agreement, which was circulated earlier, he notes the fact that early in November VicTAB decided to terminate the link with ACTTAB at the end of January. It is interesting that Ms Follett was at great pains to explain to us during her speech that it was not a termination at all; they had simply given notice of the fact that

a termination was going to take place. Mr Berry seems to take the view that it is all cut and dried and finished. Ms Follett has taken the view that, no, they have only given notice. I think it demonstrates quite vividly the situation opposite on the Government benches in relation to this matter. They are all over the shop.

I find it strange that Mr Berry should also, on the same page, question VicTAB's "about face" - I am quoting him - "and in the same way, New South Wales' unwillingness to accept VITAB into a pooling arrangement". He asks whether this could have been foreseen and says that these two occurrences were unpredictable. I think in terms of VicTAB he answered his own question when, at page 15 of the same document, he referred to the concern of the Victorians "that VITAB may poach clients from VicTAB by offering inducements". It seems strange that within a document of 19 pages we can have those two contradictions. Mr Berry went on to try to defend some of his positions. I was interested in the way that he excused VITAB for being tardy in notifying Mr Dowd's appointment to the registrar in Vanuatu. This is a strange thing. This is very peculiar. In this country this would be looked upon with some concern, but apparently it is just a matter of being tardy over there.

At the bottom of the same page, page 7, he again acknowledges that it is unsatisfactory that ACTTAB had not undertaken checks on these people prior to the contract being signed on 22 October 1993. However, all is well, because the AFP advised ACTTAB's solicitors on 17 March the following year that the people concerned were not recorded. This was after the contract had been signed. I am sorry, Mr Berry; but, again, it does not give us much faith and confidence. I must say, however, that your solicitors or ACTTAB's solicitors were very much on the ball, because on 21 January - this was before the AFP advised of the situation in relation to Kolomanski and McMahon - when VITAB submitted a request for the approval of five new shareholders, at least the solicitors got onto it fairly quickly; but that does not give us any faith that you or your officers necessarily knew what you were doing.

You went on at page 9 to argue that you did not mislead the Assembly on this strong competition for the VITAB contract. There was no strong competition. Queensland expressed an interest but found that they could not really - - -

Mr De Domenico: Legally they could not.

MR CORNWELL: Exactly. Thank you, Mr De Domenico. Legally they could not. Throughout this list of events that we have documented, time and again you state to the Assembly the strong competition for the contract from TABs - plural - throughout Australia. You seem to have forgotten that one swallow does not make a summer, and presumably one passing interest by one TAB does not indicate strong competition.

Mr De Domenico: Mr Berry swallowed the bait, though, hook, line and sinker.

MR CORNWELL: Indeed. I think the problem is, Mr De Domenico - I agree with my colleague Mr Kaine on this - that it was not necessarily deliberate on Mr Berry's part, but it most certainly was reckless. Mr Berry accuses us of attacking him. He accuses us of trying to wreck these agreements. In fact, at one point here he made a statement to the effect that he has answered all our questions. The simple fact is, and looking through the

Hansard will show it, that he did not answer our questions. He went to great lengths, in fact, not to answer them. I suspect that it was not that he was deliberately going out of his way not to answer. I think, to be honest, that Mr Berry simply did not know the answers. Therefore, he found himself in the position where he had to evade the questions generally by the rather puerile defence of going on the attack against the Liberal Party and the Opposition's comments.

I am interested also to see, at page 12 of this document, that he has perpetuated this nonsense about VITAB providing a written undertaking that it will not knowingly seek the business of Australian resident customers. This relates to inducements. On the same page he went on to say:

They -

obviously, that is we, the Liberals -

have persistently said I have withheld information and they have insisted that there is some problem relating to inducements with the VITAB agreement and that I have misled the Assembly on this issue.

There is certainly some problem relating to the VITAB inducements. I would like to read into the record two statements from law companies. One is from O'Connor Harris, barristers and solicitors, in relation to a letter dated 22 November from VITAB to ACTTAB which dealt with VITAB betting activities, and it says:

The letter in question is a document with the following characteristics:

1. It was signed after the formal agreement.

2. It was not executed under the seal of VITAB Limited.

3. It is not supported by any form of consideration.

4. It does not purport to formally alter, or add to, the formal agreement.

5. It is expressed as a statement of intention only.

I think that is very significant. It continues:

6. Despite its "businesslike" tone, it is not written in a definitive or accurate manner and is heavily quantified.

7. It does not actually undertake anything.

8. It is very vague about VITAB's levels of control over, and knowledge of the operations of, its " ... overseas representatives who will be working on a commission basis ..." in Asia.

All of the above leads me to the opinion that the letter does not constitute an enforceable document. I am even more strongly of the view that, if VITAB or its "overseas representatives" were to actively connive at inducing Australian resident customers to bet with it, then no legal action whatsoever based upon the letter would have any chance of success against even the most rudimentary or unsophisticated of schemes.

The VITAB letter of 22 November 1993 may stand as an expression of goodwill, but does not give ACTTAB any practical enforceable rights.

The second letter that I would like to put into the record is from Mallesons Stephen Jaques, and I will simply read the summary. It is in relation to the same letter. I quote:

Unless the ACT TAB could show that the Letter amounted to a representation which VITAB knew ACT TAB was to rely upon to its detriment (a situation which does not appear from the correspondence), then in our view the Letter is only a statement as at the date of the Letter of the present intention of VITAB about the way in which it intends to promote its activities among Australian resident customers. It is not itself legally enforceable. It is not intended as an amendment to the Agreement, and it is the terms of the Agreement which would contain the terms that would be legally enforceable.

It seems to me that the Minister is still in Alice in Wonderland, if we are going to use Lewis Carroll's analogy, in terms of this whole question of inducements in relation to the VITAB arrangements.

I turn now to this statement that Mr Berry makes at page 14. He said, in fact, proudly, that we have made $50,000, and that "a further $50,000 is projected through to 30 June 1994". We have just lost the superpool, however. We have a classic example here of being penny wise and pound foolish, Minister.

Mr Berry: We have not lost. We are still in it.

Mr De Domenico: It will cost them more than $50,000 for ACTTAB's legal fees.

MR CORNWELL: We have just lost the superpool and you are talking about a lousy $50,000.

Ms Follett: I raise a point of order, Madam Speaker. I am quite unable to hear Mr Cornwell for Mr De Domenico's interjections. I think he should be called to order.

Mr Moore: What about Mr Berry's interjections? Come on!

MADAM SPEAKER: Order! I do not need any comments on the level of interjections. I could not hear any. I was busy. There will be order. Continue, Mr Cornwell.

MR CORNWELL: Thank you for your protection, Madam Speaker. I need it from these people opposite. Finally, at page 15, we have Mr Berry's defence and why he was not about to tell us of VicTAB's decision to kick us out of the superpool. I am very concerned about this particular action by the Minister because it relates right back to the motion that we have moved today and the "deliberate or reckless misleading of the Assembly". We have every right, as elected representatives, to know when something as important as this takes place. It should not be hidden from members of the Assembly. I do not know, Mr Berry, whether you hid it from members of your own Government. You did not take the original VITAB arrangement to Cabinet - we know that - but I do not know whether you withheld this fact from them. Irrespective of whether you did or not, I would suggest to you that your behaviour in this matter is really quite reprehensible because the Assembly members needed to know this information. We are entitled to know it.

Mr Berry: And you do know, because I announced it.

MR CORNWELL: Of course, the reason you did not tell us at the time was that the whole VITAB business was beginning to unravel. It was creating difficulties. You thought, I suppose, that some of the heat might go out of it if you put aside the question of being kicked out of the superpool. If you left that for a few weeks, maybe the heat would go away; maybe, by delaying that announcement, you could get out of the mess that you got yourself into. Of course, it has not worked. I believe, in fairness to this Assembly and to the people of the ACT that you purport to be representing, that you should step down from your position. If you do not step down, I believe that your Chief Minister should remove you and replace you with at least one very enthusiastic member sitting behind you on the back bench.

MADAM SPEAKER: Members, it is customary at this time to suspend the sitting. I believe that it is the wish of the Assembly to suspend now.

Mr Berry: No.

Debate interrupted.

SUSPENSION OF SITTING
Suspension of Standing and Temporary Orders

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

That so much of the standing and temporary orders be suspended as would prevent Mr Humphries from moving a motion to suspend the sitting.

MS FOLLETT (Chief Minister and Treasurer) (6.34): Madam Speaker, I consider this to be an absolutely outrageous motion put forward by Mr Humphries. The fact is that we have before us one of the most serious matters that this Assembly has to consider, and that is confidence in a Minister. Madam Speaker, this motion was brought up on the timing of the Liberal Party, and their timing was agreed to by members in this chamber.

We allowed them to suspend all standing orders and to take as long as they like on this issue. Madam Speaker, it is simply not acceptable for this matter to be held over while members go off and have dinner, or whatever it is they want to do. This is a matter of vital importance and it must be heard out. It must be heard out, without interruption. Madam Speaker, I think that the Liberals, yet again, are cheapening the currency. We have seen them do it over and over with censure motions. Censure motions are just like Smarties. They are handed out to anyone. This time, Madam Speaker, they have gone one better with a motion of no confidence, and they are not even prepared to sit here until the vote is taken. It is an absolute outrage. They insult the whole Assembly and its processes.

MR STEVENSON (6.35): There has been a great deal of evidence tabled in this Assembly and I think a break would be beneficial, not to have dinner but to be able to go through some of the evidence.

MR LAMONT (6.36): Madam Speaker, the simple fact is that there has been nothing new in discussions around this chamber this afternoon. There have been a number of comments, but basically there has been nothing new. If there is contention between one issue and another, we have, on many occasions in this chamber, dealt with such an issue. I believe that we should, as the Chief Minister said, continue until this matter is determined. If we adjourn now and come back, I presume, at 8 o'clock, we will bat on until midnight or 1.00 am or 2.00 am. This matter, want of confidence in a Minister, is one of the most important matters that this Assembly has had to deal with in the last two years. We should continue and have the matter determined.

MRS CARNELL (Leader of the Opposition) (6.37): Madam Speaker, the Opposition believes that this is a very important matter and it needs to be looked at in appropriate terms, particularly by the Independents. They have had an awful lot of information given to them this afternoon. Even we on this side have received a lot of information - information that Mr Berry has tabled in the form of statutory declarations and statements from all sorts of people - that we have not had an opportunity to go through and to look at. In this case the Independents in particular have to make a very important decision. I believe that everybody deserves a little bit of time to look at the information that was put forward this afternoon.

MR CONNOLLY (Attorney-General, Minister for Housing and Community Services and Minister for Urban Services) (6.37): Madam Speaker, this is an extraordinary proceeding. We have before us one of the most significant forms of any house - a motion of want of confidence - and now they want to have a break, presumably so that they can all run around and lobby people. This matter is before the house, and members have been listening to the debate with a great deal of attention all afternoon. Mr Stevenson says that there is more evidence before us. We must not think we are a court of law. It is not evidence; it is assertion and counter-assertion. Members have listened to the debate. It is a serious matter. We should get on and debate it. I cannot imagine any house in any parliament in Australia that would decide to break for dinner in the middle of a motion of want of confidence. Either you are serious when you bring these matters of want of confidence into this place, and we debate them out, or, as the Chief Minister observes, you are debasing the currency.

MR HUMPHRIES (6.38), in reply: Madam Speaker, to support my motion, Mr Berry made a very long statement in the house this afternoon - 70 minutes' worth, 19 printed pages, and probably as much again in other statement and comments before the Assembly. He has tabled about a dozen documents. He has alleged and asserted a number of things which he did not have the courtesy to tell us before. In contrast, Madam Speaker, I point out that the vast majority of the things that have been put before the house today by us have been on the public record before now. I think, in the circumstances, it would be very much in the Government's interest to have us press on quickly to a vote on this matter, with as many unanswered questions as possible, hoping thereby to result in Mr Berry escaping the effect of this motion. The fact is, Madam Speaker, that this is a serious motion and it therefore deserves the proper time for all members to digest the material that has been put before them.

Members on my side of the chamber will not be lobbying, but we are certainly going to be discussing, with anybody who wishes to discuss it, the information that has been put before us by the Government today. I am sure, Madam Speaker, that members on that side of the chamber will not be confining themselves in their rooms. They also will want to talk to a few other people in this chamber, other than those on the Opposition and Government benches. I am sure that they will not be standing behind their desks, twiddling their thumbs or eating a pizza. Madam Speaker, we need the time to digest this material. I suggest that it is in the interests of the whole Assembly that we proceed immediately to deal with something like this in a proper fashion, which means having the time to consider it properly.

MADAM SPEAKER: The motion before us is that we suspend so much of the standing and temporary orders as would prevent Mr Humphries from moving to suspend the proceedings until 8 o'clock this evening.

Mr Berry: Madam Speaker, I raise a point of order. I thought that standing orders had been suspended already.

MADAM SPEAKER: Yes, that is right, Mr Berry. That is exactly the point I was making to my Clerk, when I was not listening to the debate. The standing orders that have been suspended relate to any other business that would get in the way of consideration of the motion that was put before us, and the time limits in relation to that debate. We have to suspend standing orders to enable a member other than you or I to suspend the sitting of the Assembly. That was the heated discussion that I was involved in up here.

Question put:

That the motion (**Mr Humphries'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, with the concurrence of an absolute majority.

Motion

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

That the sitting of the Assembly be suspended until 8.00 pm.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (6.43): Madam Speaker, as the one who is very much in focus this evening I am forced to speak on this motion because I think it is appalling treatment of what is a very serious matter. Leaving me aside - - -

Mr Humphries: I raise a point of order, Madam Speaker. Mr Berry is reflecting on a vote of the Assembly. We have had a motion to suspend standing orders - - -

MADAM SPEAKER: No. The motion before us now is that we suspend. The motion before was to permit you to put the motion. Thank you, Mr Humphries; good try.

MR BERRY: Thank you, Madam Speaker, for your close scrutiny of Mr Humphries's points of orders. A serious matter is before the Assembly. It is so serious that, in my view, it ought to be carried through to finality. It really raises the question of what people feel about these matters. I heard Mr Stevenson say that he is interested in looking at the evidence. I dealt with a whole range of issues in the course of my presentation to the Assembly. I think they were fairly straightforward. In my view, people still will have plenty of time to absorb what further information members might wish to put

forward in the course of the decision making process on this matter. I think taking a break is unnecessary. It makes the place look a bit silly. This, it seems, is not a place where people are prepared to deal with those very important issues as a matter of some urgency. This is a matter that, in my view, ought to be dealt with with some urgency. It is all right for the Liberals; they have made up their mind. A lot of other people have had a lot of time to think about this as well. I am forced to the view that you really have to press on with the thing and get it out of the road, one way or the other. Therefore, we will oppose this motion.

MS FOLLETT (Chief Minister and Treasurer) (6.45): Madam Speaker, I want to add to what Mr Berry has said and I will repeat what I said earlier. The Liberals brought on this motion.

Mr Moore: I raise a point of order, Madam Speaker. The Chief Minister just indicated that she is going to repeat what she said earlier. That clearly is in contravention of standing orders.

MADAM SPEAKER: It has nothing to do with that standing order, Mr Moore. Please continue, Ms Follett.

MS FOLLETT: Madam Speaker, the Liberals brought on this motion today. The timing was of their choosing. They said themselves that they have been considering this matter for five months, so presumably they could have brought it on at an earlier point had they so chosen. The Liberals not only chose the timing for this matter; they chose the form for the matter. They chose to bring on a motion of no confidence in the Minister. When they brought on that motion of no confidence every member of this Assembly assumed that that motion took precedence over all other business. We had no petitions, we had no question time, we had no Government business. What none of us, I think, had counted on was that the motion of no confidence takes precedence apparently over all matters except the Liberals' dinner. I think that is pathetic. They have had many months to get their case together on this matter. The onus is on them to prove the matter that we are looking at today. I think the fact that they have left their run apparently so late that they now have to adjourn it is disgraceful. We have heard repeatedly on the media reports of Liberals handing over to the Independents their files and their evidence and so on for consideration; yet, on the very day that this matter is being considered, the Liberals are saying that they are not ready to finalise it. Madam Speaker, I believe that they are simply not serious in what is one of the most serious matters that this Assembly could consider. Put your tummies aside and get on with the vote.

Question resolved in the affirmative.

Sitting suspended from 6.48 to 8.00 pm

MINISTER FOR SPORT
Motion of Want of Confidence

Debate resumed.

MS SZUTY (8.00): I would like to remind members, at the commencement of my remarks, of the terms of the motion before the Assembly:

That this Assembly lacks confidence in Minister Berry by reason of his deliberate or reckless misleading of the Assembly concerning matters relating to the ACTTAB's contract with VITAB Limited.

As we have heard, there is quite a history attached to the ACTTAB-VITAB contract. Questions have been asked about it for some considerable time. The matter has been raised by the Liberal Opposition for some months by a process of questions in the Assembly and by press releases, and they have provided both Michael Moore and me with complete documentation about the various pieces of information they have been able to compile over some considerable period.

As a result of all of that, we have two processes, which have been described by various members of this Assembly during the debate today. The first process, or outcome, is the inquiry under the Inquiries Act to be chaired by Professor Dennis Pearce. The terms of reference I had something to do with initially, Madam Speaker, in coming up with a list of questions that I wanted the inquiry to address. That process was similarly embarked on by the Liberals, who came up with their own terms of reference, and the inquiry was very generously taken on by the Chief Minister, Ms Follett. She consulted with members of this Assembly as to who the chair of that inquiry would be and has come up with fairly open terms of reference for the inquiry.

The second part of the process, or outcome, of all the discussions on the ACTTAB-VITAB contract is the motion of no confidence in Minister Berry that we are debating today. It is a question of whether the Minister has deliberately or recklessly misled this Assembly. Questions have also been raised by the Opposition about the competency of Mr Berry for some considerable period of time, starting from about the middle of March, when it was learnt that ACTTAB had been severed from the Victorian TAB superpool. It is interesting that the Liberals have come to view the motion of no confidence in Minister Berry from a background both of misleading the Assembly and of the competence of administration in the first instance.

Madam Speaker, I regard this no-confidence motion as a matter of the utmost gravity and seriousness, and it is one, obviously, with which the Assembly has been struggling today. In tune with the development of the terms of reference for the inquiry under the Inquiries Act, I have given this no-confidence motion the same amount of attention to detail that I have given the drawing up of suggested terms of reference for the inquiry. The consequences for the Minister if the motion is put and carried are of the utmost seriousness. The expectation of the Assembly would be that Minister Berry would resign. If he would not resign, then the Chief Minister would remove Mr Berry from the ministry.

The consequences for Mr Berry's political career are profound. My expectations if the no-confidence motion is carried are that action must occur. However, I believe that, wherever the benefit of the doubt exists in our consideration of this motion of no confidence in the Minister, that benefit of the doubt must go to the Minister at this time. The case that the Opposition has mounted against Minister Berry must be proven and must be seen to be satisfactorily proven to this Assembly today.

I would like to outline my own process of consideration of the issues in relation to the no-confidence motion. I have done it in fairly recent times but done it, I think, in a fair amount of detail. Firstly, I think it would be helpful if I clarified my position in relation to this no-confidence motion and also in relation to the inquiry that I feel I helped bring about. I have said previously and publicly that I believe that the establishment of the inquiry is important in ascertaining the facts of the process in relation to the VITAB-ACTTAB contract and that the inquiry may or may not have a bearing on the Assembly's assessment of the Minister's performance in relation to it. However, the inquiry and assessing whether the Minister for Sport has misled the Assembly can still be seen as two separate issues if the latter can be determined on the evidence as it exists.

The Opposition have publicly indicated on numerous occasions, and especially since about the middle of March, that a motion of no confidence in the Minister would be moved in the Assembly at the earliest opportunity. The Minister himself has also indicated that he does not want a no-confidence motion hanging around, so to speak. Quite rightly, therefore, Madam Speaker, this motion of no confidence in the Minister is being debated in the Assembly today, and it is up to each of us, on the information we have available, to form our own conclusions as to whether the Minister has misled the Assembly.

I have also been very conscious of the gravity of the motion that is proposed. I have been back to *House of Representatives Practice*, which has been referred to by several members in this chamber today, particularly to assess the Minister's responsibility for the ACTTAB-VITAB contract. We have heard in the Assembly that the Minister has taken on himself the responsibility of the ACTTAB-VITAB contract, and certainly he has indicated that Cabinet had no particular involvement in the process. So I read with interest some of the statements in *House of Representatives Practice*, second edition, about individual ministerial responsibility, and I quote from page 87:

It is through ministers that the whole of the administration - departments, statutory bodies and agencies of one kind and another - is responsible to the Parliament and thus, ultimately, to the people. Ministerial responsibility to the Parliament is a matter of constitutional convention rather than law. It is not tied to any authoritative text, or amenable to judicial interpretation or resolution. Because of its conventional character, the principles and values on which it rests may undergo change, and their very status as conventions be placed in doubt. In recent times the vitality of some of the traditional conceptions of ministerial responsibility has been called into question, and there is little evidence that a minister's responsibility is now seen as requiring him to bear the blame for all the faults and shortcomings of his public service subordinates, regardless of his own involvement, or to tender his resignation in every case where fault is found. The evidence

tends to suggest that while ministers continue to be held accountable to Parliament in the sense of being obliged to answer to it when Parliament so demands, and to indicate corrective action if that is called for, they themselves are not held culpable - and in consequence bound to resign or suffer dismissal - unless the action which stands condemned was theirs, or taken on their direction, or was action with which they ought obviously to have been concerned.

So there are fairly serious issues for all of the members of this chamber to consider, particularly as we deal today with this most important matter.

Further on the issue of individual ministerial responsibility, *House of Representatives Practice* states:

When responsibility for a serious matter can be clearly attached to a particular Minister personally, it is of fundamental importance to the effective operation of responsible government that he or she adhere to the convention of individual responsibility.

I think there is little doubt that in this chamber today the Minister has accepted responsibility for the ACTTAB-VITAB contract. To conclude with a further quotation from *House of Representatives Practice*, in relation to Ministers in particular, it states on page 346:

... if a motion of want of confidence in, or censure of, a Minister were successful and its grounds were directly related to government policy, the question of the Minister or the Government continuing to hold office would be one for the Prime Minister to decide.

Obviously, we are looking at a Federal situation here. It continues:

If the grounds related to the Minister's administration of his department or his fitness otherwise to hold ministerial office, the Government would not necessarily accept full responsibility for the matter, leaving the question of resignation to the particular Minister or to the Prime Minister to appease the House and satisfy its sense of justice.

That in a sense is what we are doing today. We are assessing whether this motion of no confidence in the Minister for Sport can be substantiated at this point. As well as my consideration of *House of Representatives Practice*, which I think is the best guide to informing ourselves as to the likely steps we can take as an Assembly, I have also been back very thoroughly over the relevant uncorrected proof transcript of the Estimates Committee hearings of last year, in which both the Minister and Mr Neck, the chief executive officer of ACTTAB, talked quite extensively about the importance of ACTTAB being linked to the Victorian TAB superpool. It was the impression of members who attended that committee hearing that that link was of considerable importance to the ACT and certainly that the ACT stood to gain a significant standing in terms of the return the ACT could secure in the future by being linked to the Victorian superpool.

I have also been back through the relevant debates in the Assembly - in November 1993, December 1993, and into this year with our sittings in February and March. I think I can speak also for my colleague, Mr Moore, when I say that we have not asked questions about the ACTTAB-VITAB contract in the Assembly. It is the Liberal Opposition whose members have asked questions in the Assembly on this particular issue. I guess we have been interested observers in terms of the process of questions the Opposition has asked and answers the Minister has given. So it has been very important for us to go back through the *Hansards* to gain our impressions of the debate at the time.

I also received yesterday from the Liberal Opposition, as I mentioned earlier, a fairly extensive dossier of information, and I spent some time considering it into the very small hours of this morning. I guess it would be appropriate now to talk briefly about some of the material that is contained in that dossier. It would be fair to say that my general impression of the material the Liberals have put together is that it is basically patchy, and earlier today I indicated to them my impressions about this information.

There is no doubt that some key pieces of information have been included. In general, it has been quite helpful in informing me, as a member of this Assembly, about some of the processes that have occurred in relation to the ACTTAB-VITAB contract. However, there has also been some material included which I consider to be of a longbow nature, and I would like to present the Assembly with an example of what I consider to be drawing a longbow on this issue. The piece of information I will refer to is headed "21 May 1992" and concerns a ministerial statement that the Minister, Wayne Berry, presented to the Assembly on the results of a racing Ministers conference held in Alice Springs on 30 April and 1 May 1992. It goes on to quote a statement the Minister made at the time:

... following the Alice Springs meeting, officers of the Office of Sport and Recreation have held preliminary discussions with the ACT Law Office with a view to ensuring that the legislation in the ACT covering the offence of SP bookmaking is effective ... The issue of illegal SP bookmaking cannot be glibly dismissed.

At the end of that summary, it is stated:

Mr Berry should have paid more attention to what his own ACTTAB was about to do. An agreement the TAB would sign with a Vanuatu based company in October 1993 was negotiated by a man with SP bookmaking convictions and witnessed by a man who had been charged with SP offences.

I guess the connection is really one of a longbow nature. We are referring initially to a ministerial statement the Minister made in the middle of 1992 and then linking it fairly significantly and directly with events that have happened in regard to the ACTTAB-VITAB contract, discussions on which commenced in the middle of 1993.

I do not intend to go through all the pieces of information the Liberals have provided me with, because I would be here for the rest of the evening; but I would like to present a summary of where I think the issues currently stand. I would like to do that in conjunction with the issues Mrs Carnell raised as Leader of the Opposition when she introduced the motion we are considering. The most significant issue as far as I have been concerned all through this consideration of the ACTTAB-VITAB contract is the severing of the contract between ACTTAB and VicTAB, which was announced in the middle of March this year. I think it is fairly clear from the trail of information that the calls for the Minister to resign and the suggestion of a motion of no confidence in the Minister all started to be initiated after that severance of the ACTTAB-VicTAB link was known, both to members of the Assembly and to the general community. That, to me, is the most significant issue.

There are other issues that the Leader of the Opposition has identified in her remarks and which comprise some of the material we have been given in relation to the ACTTAB-VITAB contract. I should like to go through them briefly. Mrs Carnell talked about the competition with other States that ACTTAB had and said that it had been stated by the Minister and various other players in the process that ACTTAB had competed for this contract with VITAB. We have received information from the Chief Minister in terms of a statutory declaration, which I believe she referred to in her remarks, from Philip Neck about a statement he has made that purports to substantiate that there were other TABs that were openly competing for the ACTTAB contract. The relevant paragraph of the statutory declaration the Minister tabled earlier today states:

On the 11th April 1994 I asked Mr Dan Kolomanski, a Director of VITAB Limited, whether at the time VITAB was negotiating with ACT/TAB it had also been negotiating a similar arrangement with the Queensland TAB. He confirmed to me that those negotiations with the Queensland TAB to provide similar off-shore betting services to VITAB had continued up to the time when the ACTTAB/VITAB Contract was signed on the 22nd October 1993.

This is a statutory declaration from Mr Neck, but it undoubtedly relies on information provided to him by Mr Dan Kolomanski. I think a question still remains in the minds of the members of this Assembly about exactly what was the nature of the competitive environment ACTTAB was in up to the time the ACTTAB-VITAB contract was signed. We also have information provided to us by the Liberal Opposition in terms of a letter from the Queensland TAB - I believe, the chief executive officer - saying that, as far as they are concerned, they have a fairly different version of events. I raised earlier the fact that we are considering two issues: The motion of no confidence in the Minister that has been proposed today and the inquiry being chaired by Professor Pearce. This is probably one example of where the inquiry process will undoubtedly uncover the facts of the scenario. As Ms Follett indicated earlier, we will all have the opportunity, once that inquiry's report is tabled, to make our own assessment of Professor Pearce's conclusions.

Another issue that Mrs Carnell raised was the details of the VITAB principals, the directors and shareholders, and the bona fides of each of those people. Again, we have heard some explanation from the Minister as to the exact state of affairs and who was a director and who was not at a particular time. I believe that, again, it is a matter the inquiry will look at in some detail. The questions as to the bona fides of the people involved are still there, and the Opposition has quite properly raised questions as to the background of these people who have been involved with VITAB.

An issue that I do not think the Minister has addressed, and it is an issue Mrs Carnell referred to in her remarks, is the question of what sort of company VITAB is - whether it is a public company or a private company. I notice that the Minister in his remarks to the Assembly did not touch on that issue. I will stand corrected if that is not the case, but I do not believe that he did address that issue raised by the Leader of the Opposition. It is a question of detail, but it is a very important question of detail and one that I guess members of this Assembly would have expected the Minister to get right in terms of responses to questions.

Mrs Carnell also raised the issue of the lack of tabling of the directive. The Minister basically referred to the matter as an approval process rather than a directive that needed to be tabled in this Assembly. I think he has addressed that situation satisfactorily up to this point. Mrs Carnell also talked at length about the issue of inducements, and again I think that is an issue that would stand greater exploration by Professor Pearce's inquiry into the ACTTAB-VITAB contract.

I have referred to Mrs Carnell's speech, but certainly those issues were issues that emerged from the dossier of information the Liberals provided me with. My feeling, after reading that material and comparing it with the statements the Minister had made in Hansard, was one of general confusion over particular issues. Ms Follett said earlier that the purpose of the inquiry was to establish the facts of what occurred, and I think that, for most of the matters contained in the dossier of information and which have been dealt with in Hansard, the inquiry is the proper place for those matters to be sorted out.

I have in my notes the comment that, for me, general confusion arose as to who were the VITAB directors and shareholders, what positions various people held and at what times, what companies were involved and at what times. There is a fairly confused history as to what has happened over a short period. There is also confusion about what sort of company VITAB was - public, private, Australian owned, locally based, whatever - and whether there were Asian interests involved, which has been referred to in various documents that have been made available to me also. There is general confusion about the approaches by VITAB to Australian TABs in general and the process of winning or securing the contract - an issue I touched on earlier. There is confusion over the various roles of ACT Treasury, the Government Solicitor's Office and Price Waterhouse in checking bona fides, checking the general legality of the contract and what ACTTAB would be liable for. There is also confusion about the meeting on 6 December, what was discussed, whose views were expressed, and whether there were warning signs at that stage that ACTTAB could be cut out of the VicTAB pool.

One very interesting piece of information that I have looked at very carefully in the dossier of information provided to me by the Liberals is an article that appeared in the Sydney Morning Herald on 21 February 1994, which not only questioned the VITAB-ACTTAB contract but also questioned VicTAB's operations in Vanuatu, which nobody had particularly drawn my attention to. As I read through the article, I found that there were questions raised not only about the ACTTAB-VITAB contract but also about VicTAB's current operations in Vanuatu.

My feeling, after going through the Hansards, reading the information that had been provided and assessing what the Minister had said in the Assembly, was one of general confusion, but one which I believed would be sorted out in time by the process of the inquiry. I still have difficulty - and I am hoping that the Minister will address this at a later stage this evening - with the process of the severance of the link between ACTTAB and VicTAB. We had occasions in the Assembly in February and March this year when many questions were asked by the Opposition in relation to the VITAB-ACTTAB contract. It was obviously an issue of concern. I certainly did not have any idea whatsoever, and I believe no other member of the Assembly did, that the severance of ACTTAB's link with the VicTAB superpool would eventuate, possibly as a consequence of the ACTTAB-VITAB agreement and possibly as a result of various other matters that VicTAB were considering.

For me, the question is: Was the Minister unprepared to come to this Assembly to inform members about the fairly serious step VicTAB had taken in relation to ACTTAB? I recall very clearly that the Minister offered no information in responding to Opposition members' questions on the matter. The clearest indication was on 2 March in debate, and many members have referred to this already, in relation to a question by Mr Westende, which I do not believe the Minister answered in any way, shape or form. He did say that the ACTTAB-VITAB agreement was a good deal; that we had little to worry about.

While the Minister has said that we need to look very closely at those statements and not necessarily infer that they had anything to do with the ACTTAB-VicTAB contract, we should be mindful of the comments the Chief Minister has made that we need to see this issue in context. Part of the context of the VITAB-ACTTAB contract is most definitely the contract between ACTTAB and VicTAB. To me, the VITAB-ACTTAB contract took place because of ACTTAB's involvement with the Victorian TAB superpool. I do not think there is any getting away from that. As a member of this Assembly, I was left with the very distinct impression that there was nothing to worry about. At the conclusion of those sittings in the first week of March I felt, as a member of this Assembly, that I had nothing to fear. The Minister was saying to this Assembly that everything was all right and there were no likely adverse consequences for the ACT with regard to the ACTTAB-VITAB contract.

I think the Minister in his remarks, and I appreciated receiving a copy of the speech he delivered earlier today, is fairly unclear about that issue. Perhaps I can go back over some of the Minister's statements in his speech. He said in relation to that remark in the Assembly specifically:

... members should carefully consider what I have said because those comments relate specifically to the benefits of the ACTTAB/VITAB agreement, which is separate from ACTTAB's arrangement with VicTAB.

And he is right. There is absolutely no question that the ACTTAB-VITAB contract has everything to do with ACTTAB's link with the VicTAB superpool - and if not the VicTAB superpool, then some other superpool within Australia which might be available to the ACT.

I understand that the Minister may have felt that it would have been irresponsible, premature and perhaps damaging for him to have made an earlier announcement on VicTAB's decision to terminate its link with ACTTAB. Maybe he did not feel that he could come into this Assembly and say that in open session with all members, but Mr Moore and I had no approach from the Minister, no offer of a briefing to explain what was happening. There was no reason, presumably, for us to be concerned at all. There have been other occasions in this Assembly when, if it is felt that members should be aware of a particular situation, an offer is made to keep us informed about what is going on without having a debate on the floor of the Assembly.

I also find it difficult that the Minister could not come to the Assembly and brief us a little more fully, perhaps because he was afraid of the Opposition's reaction. I suppose that is all very well if we regard this place as a purely political place, but there are other members of this chamber to consider, and they include members on the cross benches - Mr Stevenson, Mr Moore and I - who had not been asking any questions about the VITAB-ACTTAB contract but who would have been concerned about the events happening behind the scenes.

The Minister has provided us with some detail as to what has happened with VicTAB, and it has been a fairly sorry tale as far as the ACT is concerned. We were informed in late January that we would be cut out of the superpool but that no reasons would be given for the decision VicTAB had made. Of course, there is no requirement for them to give us any reasons for their decision, but I understand that it would have been difficult for the Minister and for ACTTAB to understand why that had occurred. However, we know also from the Minister's statements that VicTAB confirmed its intention to cut us out of the superpool on 14 February 1994. It was two weeks before the Assembly sat. We went through two weeks of fairly rigorous questions from the Opposition, and the first that members of this Assembly and members of the community knew about the ACTTAB-VicTAB severance was in the middle of March. A whole month had elapsed. That is in stark contrast with the amount of time over which ACTTAB negotiated the VITAB contract in the very early stages. I understand that the Minister has had discussions with the Minister for Racing in Victoria, and I believe that that is still unresolved. But the question still remains as to why the Minister could not bring himself to inform members of this Assembly exactly what was going on.

Madam Speaker, I am conscious that I have taken up a lot of the Assembly's time in the remarks I have made. I have also taken fairly detailed notes on all of the speeches in this debate so far, and I should like to quickly summarise some of the points that have been made. I think I have covered Mrs Carnell's opening address fairly fully. While I believe

that she identified the major issues quite well, I believe that there were parts of her address which were embellished. Perhaps words were added for political emphasis and focus where they may have made more impact by being even-handed. I can see Mr Humphries looking perplexed, so perhaps I could cite a couple of examples of what I mean. Mrs Carnell gave me a copy, before she delivered it, of what I think is a draft of her speech, so I was aware of some of the remarks she would be making. An example on page 3 states:

Mr Berry also said that ACTTAB won the VITAB contract in cutthroat competition with other States.

I do not recall the Minister ever referring to the competition as being cutthroat, and it has fairly obvious connotations. Some of the remarks she made were perhaps ones of overemphasis as much as anything else, and ultimately the Assembly will decide today on the case against Mr Berry. An example on page 7 states:

Mr Berry knew "full well" that ACTTAB's dumping from the Superpool was totally relevant to questions the Opposition asked him in February and March.

I think there is some doubt about that. Certainly the inference has been made that it would be the VITAB contract; it was obvious that it would be the VITAB contract, but that has never been explicitly said anywhere, to my knowledge. Those are some examples of where Mrs Carnell perhaps went a little further than I, as a member of this Assembly, would have been prepared to go.

Mr De Domenico also raised a number of matters: The very important question of the timing of the moving of the no-confidence motion; the statements the Minister had made publicly, as well as statements he had made in this Assembly; the transition of ACTTAB to a statutory authority, which occurred last year; and the process he has been through in requesting freedom of information and the expense the Liberal Opposition has been put to in securing that information. He also referred to the political stunt nature of some of the debate. I think that has been rather unfortunate. The Minister has accused the Liberals of political stunts, and I think the opposite has occurred and the Opposition has accused the Minister of political stunts on particular occasions. Mr De Domenico also brought up the very important matter of the contrast of the ACTTAB-VITAB contract arrangements with those pertaining to the casino, and he outlined the very different process the ACT went through in coming up with a casino operator for Canberra.

The Chief Minister talked a lot about the no-confidence motion pre-empting the inquiry process, and I addressed those issues earlier in my remarks. Mr Humphries focused his remarks on the gravity of the situation we are considering today and the responsibility the Minister has carried in that process. He also said, importantly, that the Assembly is the custodian of the integrity of this place, and that is quite right. He drew on the issue of whether it is appropriate that the Assembly should be considering a no-confidence motion at this stage or whether the inquiry process should proceed to its ultimate conclusion before any action is taken. He cited some very good examples of ministerial responsibility and how that has been dealt with in other parliaments. Mr Humphries, I remember, spoke for quite a long time, and I have quite a lot of notes on what he said.

Mr Connolly mentioned that this was a very serious matter, and every member of this chamber would agree with that. He also referred at length to parliamentary practice and the way no-confidence motions have been debated in other places, particularly while inquiries have been in progress. Mr Kaine raised many of the issues I have raised in this debate, and particularly the very important question of the Chief Minister's consideration of the position of the Minister for Sport while the inquiry process is going on. If the inquiry process is looking extensively at the competency of the Minister, obviously the Minister would have been best placed to stand aside for the duration of the inquiry. I noted when Mr Kaine referred to the terms of reference for the inquiry that point (c) refers to the involvement of the Minister for Sport being inquired into and reported on in relation to the agreement between ACTTAB and VITAB. That is a very different matter from the Assembly considering a question as to whether the Minister has misled this place or not.

We then heard from the Minister, and I have touched on some of the remarks he made. He explained at length and addressed many of the issues the Opposition have raised in this place today. I personally feel that the Minister has addressed most of those matters. I believe that, fundamentally, most of those issues are best addressed through the inquiry process, but I would like to indicate to this Assembly that I am not satisfied that the Minister did everything he could to inform the Assembly exactly what the situation was with the ACTTAB-VicTAB contract at an early enough stage. I am sure that the Minister will address those concerns later in this debate.

Mr Cornwell, before the dinner break, indicated that the inquiry process will not assess whether the Minister has misled the Assembly, and he is quite right in that view. He referred extensively to Hansard debates, the questions that have been asked in this Assembly and the answers that have been given. I found it rather difficult reading through some of the questions that were asked and the answers that were given, because of the numerous interjections that occurred. There was one answer in particular - it might have been to Mr Westende's question or it might have been to Mr Cornwell's - when there were four different interjections from members of the Opposition while the Minister was in the process of answering. It is difficult for a Minister who has been asked a question, when there are interjections from the Opposition all the time, to focus his remarks on the intent of the original question and also on the interjections, if he chooses. At times it was difficult for the Minister to address adequately the questions that had arisen.

In summary, Madam Speaker, we have an extremely important motion before this Assembly today: That this Assembly lacks confidence in Minister Berry by reason of his deliberate or reckless misleading of the Assembly concerning matters relating to ACTTAB's contract with VITAB. I would like to hear further from him on the major issue I have raised, and I will be making my final decision on this motion on the basis of other members' contributions to this debate.

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning) (8.42): Madam Speaker, this is our first day in a new and dignified Legislative Assembly, in a building that is modest but appropriate. I am sorry that on the first day in this place the Opposition has come up with old but by now familiar tactics. I think they have been quite undignified, inappropriate and immodest. It is certainly the role of the Opposition to challenge and to question, to probe deeply, and we all acknowledge that; but it is also the role of the Opposition to be responsible and not merely political. Today and tonight we have seen them being quite political. They have argued persistently through this debate that this question of misleading the Assembly is a separate issue from the inquiry by Professor Pearce. But what is Professor Pearce going to do? He is going to look at a whole range of issues and in the end he is going to comment on whether this was a good deal for the ACT. The Opposition made great note of the fact that Mr Berry had said that this is a good deal for the ACT, and surely, in the end, that is what Professor Pearce is going to judge - was this a good deal? Why then do we have this claim tonight for a judgment?

Think back to one of your colleagues in another Assembly when some of my colleagues in that same Assembly in New South Wales passed judgment on Nick Greiner. I acknowledge that it was the Labor Opposition that pushed it. That Assembly voted and said, "Nick Greiner, you are out". What happened just a short time later? Nick Greiner was absolutely exonerated. What are you going to do, having moved a motion of no confidence, if you kick Wayne Berry out tonight and in a few weeks' time Professor Pearce comes out and says, as he may well do, "That was a good deal for the ACT."? There is a very significant difference between the Greiner case and the Berry case in that in the first instance the ICAC had passed a judgment critical of Greiner. We do not have that here with Wayne Berry. At least there was some justification for the New South Wales Parliament to vote as it did. There is absolutely no justification for any process of condemnation of Wayne Berry. So I ask the Independents to consider very carefully where they think they will be if Professor Pearce says that VITAB was a good deal for the ACT. That is the key point that Mr De Domenico made. Where will you be?

The Chief Minister a little time ago made the point that this motion of censure or admonition - was it admonition that Mr Connolly faced? - is a debased currency. Once a month, it seems to me, the Opposition raises a question of no confidence, censure or whatever. I know that quite well. There is no justification. You are debasing the currency. This debate tonight is in that vein. It is becoming a regular tactic by the Liberals as part of their campaign, and I think it has no value any more.

Madam Speaker, let me run through the main issues. I believe that it is quite clear from this debate that the issues are not always as simple as the Opposition would have us believe. The debate, to those who are still considering their point of view, at least must sound a note of caution for them. I think Mr Cornwell gave the lead to the Independents in this Assembly. I remember only two of the words that he used. Speaking of Wayne Berry, he used the words "integrity" and "honesty". Mr Cornwell, could you remind me of the other couple that you used of similar note?

Mr Cornwell: I said "reckless" and "deliberate".

MR WOOD: The words are there, "honesty" and "integrity". That is what he says of Wayne Berry. He said, "We are not questioning his honesty, his integrity; we are only moving a motion of no confidence". In saying that, Mr Cornwell said it all. No-one in this Assembly seriously doubts the honesty or the integrity of Wayne Berry. I believe that the Minister and the Government have put forward clear evidence which contradicts each and every one of the allegations raised by the Opposition. Let us look at them in turn. The Opposition alleges that the Minister misled the Assembly in relation to the status of directors and shareholders of VITAB, and in particular of Oak Ltd. The Minister, however, has provided clear evidence about who are the directors of VITAB and why there may be discrepancies in relation to the company records in Vanuatu, and the Opposition should now acknowledge that point.

The second issue related to the checking of the directors and shareholders of VITAB. The Opposition raised concerns about the bona fides of the directors and suggested that one of them was guilty of a criminal offence. The Minister has tabled evidence from the Australian Federal Police which clearly contradicts the assertions of the Opposition. All of the directors of VITAB have received clearances from the AFP. In addition to the character checks, the directors have provided performance guarantees for VITAB's obligations. Also, a security bond of $50,000 has been provided by VITAB. The contract further provides for ACTTAB approval for any changes to the company's directors or a change of shareholding greater than 5 per cent. It is clear from all of this that the Opposition's claims in relation to this matter cannot be substantiated.

The third issue related to whether ACTTAB was in competition with other TABs for the VITAB business. The Opposition has claimed that the Minister has misled the Assembly on this issue and there was no other competitor for the VITAB agreement. Against this, the Minister has provided statutory declarations from the chief executive of ACTTAB and a departmental officer and also has referred to other instances where references were made to competition from other TABs by people who were in a position to know. All of this demonstrates that the Minister had a reasonable basis for saying that ACTTAB was in competition for the VITAB agreement.

The fourth issue concerns the question of inducements. The Opposition claims that the VITAB agreement geared up possibilities for Australian based customers to be induced to bet with VITAB rather than with Australian TABs. In relation to this issue the Minister referred to the written undertaking provided by VITAB that they would not be offering inducements to Australian punters. The accuracy of that claim can be clearly demonstrated. The facts prove that. There is clear evidence to show that neither the operation of VITAB nor the Victorian TAB's Vanuatu based operation has impacted on TAB turnovers Australia-wide. In relation to ACTTAB, its Australian turnover has increased by 6.4 per cent since the commencement of the VITAB agreement. Turnover in all of the States and Territories has continued to increase over the last 12 months. Turnover everywhere has increased. So what VITAB said has been shown to be the fact. On this evidence there is simply no basis in fact for the concerns raised by the Opposition.

The fifth issue related to the alleged involvement of Mr Bartholomew and, in turn, his association with Mr Tripp. The Opposition has tried to argue that Mr Bartholomew was a major participant in the development of the VITAB agreement and that his relationship with Mr Tripp casts aspersions on the legitimacy of the contract. As the Minister said in the Assembly on 22 February, Mr Bartholomew attended only one brief meeting on 21 July 1993 and was not involved in any other negotiations. Furthermore, Mr Bartholomew is neither a director nor a shareholder of VITAB.

The final issue concerns whether the Minister misled the Assembly during February and March following the notice of termination by VicTAB. This is the issue that is of some concern to Ms Szuty. The Opposition argues that the Minister continued to state that the VITAB contract was safe and beneficial to the Territory, knowing that VicTAB had indicated that it would terminate its link with ACTTAB. The Minister provided clear evidence of the financial benefits which the Territory, through ACTTAB, would derive from the VITAB agreement, and $100,000 is projected through to 30 June this year. Moreover, the Minister indicated a range of provisions in the agreement which provided the necessary financial security to the Territory in relation to the arrangements with VITAB. The Minister also indicated that he did not announce VicTAB's decision to terminate the link with ACTTAB, so that, sensibly, he could protect the interest of the Territory, in terms of pursuing a reconsideration of the notice of termination by VicTAB or enabling ACTTAB to commence discussions with other State TABs with a view to securing an alternative pooling arrangement. That is very sound administration, undeniably. The Minister did not mislead the Assembly on this matter. Rather, as has been demonstrated, he was seeking to ensure that the best interests of the Territory were protected and enhanced.

It is clear that the Minister has convincingly refuted all the so-called evidence presented by the Opposition. Quite simply, despite all the posturing and hyperbole in the lead-up to this debate, over quite a number of weeks now, they have failed to prosecute the case today. More than that, to take up Ms Szuty's point, if there is any benefit of doubt it has to be given to Mr Berry. I make it clear that there is no doubt that he has done the job properly. He has administered this with the best of ability. It has been well done. Let us take up Ms Szuty's point. If there is any doubt, the doubt has to be given to Mr Berry. It has to be. I relate that to my comment earlier about what Professor Pearce might find about this good deal in due course. I think that is a very important issue for the Independents to understand.

The Government, Madam Speaker, has responded to the concerns raised in relation to this matter by setting up an independent inquiry, with wide terms of reference and the powers of the Inquiries Act and chaired by an eminent lawyer. It is time to drop this outrageous motion and leave Professor Pearce to do the job that he was commissioned to undertake.

Mr Humphries: Might I speak a second time, Madam Speaker? I do not know whether I need leave or not.

MADAM SPEAKER: You need leave. The motion simply allowed you to have no - - -

Members interjected.

MADAM SPEAKER: Order! I am trying to tell members that if anyone wishes to speak again they will need leave. The standing orders were suspended in terms of time limits, not the number of times that people spoke. Is leave granted for Mr Humphries to speak again?

Leave granted.

MR HUMPHRIES (8.57): Thank you, Madam Speaker. I want to respond to a few of the issues that have been raised in the course of the debate, particularly some points made by the Minister. My colleagues Mr De Domenico and Mr Cornwell also will raise some of those matters and address those, as well as Mrs Carnell who will sum up our case and, I hope, comprehensively refute the points that have been made by the Minister.

I must say, Madam Speaker, that I found the Minister's general comments and his defence of his actions to be fairly pathetic. I would have expected a Minister fulsomely prepared to defend the decision he had made if he believed that the decision was a good decision. I would have expected a Minister who would come to this place and identify the complete inaccuracies of what was alleged about these matters, rather than say, for example, as he did so often in the speech he gave this afternoon, "Well, I was advised this". For example, in the case of the competition question, he said, "Bob Hawke said this and Mr Neck said that and the man from VITAB said that, and I felt that I was entitled to believe what was said because they all told me that that was the case". I think that is a pretty pathetic kind of defence.

We do not rely on Mr Hawke, or Mr Kolomanski, or anybody from VITAB, or Mr Neck, for that matter, to oversee the totality of this Minister's portfolios. We rely on the Minister. He ultimately is the person, under the Westminster system, with collective and individual responsibility to this place, who has to be able to come in here and, in a sense, wear the responsibility for decisions that he makes. Sometimes he relied on other people to give him advice, but on occasions he has to check that advice. The point that the Opposition is making in this place today is that Mr Berry had alarm bells ringing that sounded like a thousand fire trucks bearing down on somebody's house, and not until very late in the piece did he start to ask the questions he should have asked. The fact is that he did not.

Madam Speaker, he also put up a whole number of straw men in this debate, a whole number of allegations, and he knocked them down. The problem with these allegations is that they are not actually the allegations that have been made by the Opposition. For example, he stood up there and comprehensively refuted the idea that Michael Dowd had an association with Alan Tripp. We were gratified to hear that that was the case, but we had not alleged that Mr Dowd had any association with Alan Tripp. Mr Berry stood up there and said, "The Libs are wrong to say that Mr Bartholomew was a director of VITAB". The Liberals have never said that he was a director of VITAB. The Liberals have said that he was a player in the VITAB deal, as indeed he was. He formed the agreement. He negotiated the agreement.

Mr Berry: Was he a principal? Do not answer that one, Gary. It is going to dob you in. Was he a principal?

MR HUMPHRIES: I am afraid that if he is negotiating the contract he sounds like a principal player to me. Madam Speaker, Mr Berry said that the Liberals caused VicTAB to expel the ACT from the superpool. He raises extraordinary allegations and he supports them by tabling a document which, incidentally, was given to the media, so we were hardly secretive about this information, were we? We gave it to the media as an indication of what we were saying about the criminal record of particular individuals. That information happened to come from the Victorian Minister, but the assertion that we have made is that we made no contact with the Victorian Government about the question of VITAB and VicTAB's arrangements with the superpool until well after the ACT had been expelled from the superpool.

Mr Berry: There is a pretty big question of propriety about that.

MR HUMPHRIES: That is the case. If you have any evidence to the contrary, you table it; you produce it. Do not pretend that other people have the same conniving kind of mind that apparently you have as far as these sorts of issues are concerned. Now he leaves the chamber. Mr Berry said that the Liberals say that Bartholomew has convictions in the ACT Magistrates Court. We have never said that. He refuted this assertion by tabling a document showing that Mr Bartholomew has no convictions under section 25 of the Magistrates Court Act 1930 of the ACT. We have not said, at any stage, that he has had any convictions in the ACT, but we made it quite clear that he has convictions in Victoria. That is where - - -

Mr Connolly: You said that he was arrested at the Hyatt.

MR HUMPHRIES: No; McMahon. You are getting confused, Mr Connolly. Do pay attention. McMahon has been arrested; Bartholomew has been convicted, twice. That is the situation. By the way, we have asserted that. Mr Berry has produced a flurry of papers in this case to deny that that is the case but has not laid a finger on any of those allegations. What we have said is that Mr Bartholomew has two convictions for SP bookmaking related offences, and Mr McMahon was charged in 1988 with two offences of the same nature. That is what we have asserted. Mr Berry has not put before this Assembly a single document or allegation to prove that what we said is wrong. That remains our assertion.

Madam Speaker, Mr Berry raised as his very first point in his contribution to this debate that the Liberals did not ask VITAB itself for any details until quite recently. With great respect, we had made contact with VITAB before that point and we discovered, as have many members of the media in the ACT and around Australia, that VITAB is extremely difficult to get to speak to. It is a wonder that the Minister was able to table any documents here today. It is a wonder that he got on to these people to get them to supply any information to him, because we found great difficulty in making contact with VITAB. I might say too that, having had this quite legitimate information put to us about VITAB, it is hardly surprising that we - - -

Mr Berry: You did not write until 29 March.

MR HUMPHRIES: That is not true. Do get it through your thick head. The first time we wrote to them was on 29 March. We contacted them by telephone before that point. Moreover, Madam Speaker, what obligation is there on us to look to VITAB when information which was contradictory to that information came to us from more reliable sources such as the companies office of Vanuatu? The companies office of Vanuatu indicated that the directorship of VITAB was not as was told to us by the Minister. Are we really obliged to go and talk to VITAB to find out from them what the story is? Should not the Minister be able to tell this Assembly what the story is with a company with which he is dealing? I would have said so.

The Minister also asserted that Mr Dowd was in fact a shareholder of VITAB. He produced a short document, not dated, except for 10 October 1993, apparently transmitted to the ACT today. Was this the first information the Minister had, after five months of debate on this subject, to prove what he had been telling the house fairly desperately for the last four or five months about the directorship of VITAB? Is this the first piece of information he actually had to prove what he was saying?

I might ask: How do we know that the document is authentic? With great respect, VITAB is so incompetent, to put it very mildly, that it has not even bothered to update its company records six months after the supposed changes were made. It is so incompetent that it cannot do that. It has at least one director who has been charged with an SP bookmaking offence - the Government did not know about that, apparently - and we are asked to believe that this document is an accurate reflection of what was decided. If it is an accurate reflection of what was decided, why was it not transmitted to the companies office of Vanuatu? If you delay as long as that in advising the companies office in an Australian State that you have changed your directorship you will be up for a very hefty fine; you have broken the law. We do not know what the law in Vanuatu says about supplying changes of information. We can only assume that you are allowed to get away with much longer periods of not notifying changes in directorship or shareholding of companies in that jurisdiction.

I make this interesting observation as well, Madam Speaker: Why was the Government relying on the advice of VITAB, particularly when it is supposed to have solicited its own company searches? Price Waterhouse, we were told, repeatedly, did its own search. Did they not hold the two documents in the one hand, the presumably written advice at some point from VITAB saying that Mr Dowd is a director, and the same from Price Waterhouse - the reliable Price Waterhouse to which Mr Berry referred many times - and see that in fact Michael Dowd was not recorded as a director; it was Oak Ltd? That is a matter which has not been explained to this place. That, of course, is what we are saying in this motion; that Mr Berry misled. He was given opportunities to correct and did not bother to do so.

Putting aside the question of Mr Berry advising members of this place on the basis of advice from VITAB and ignoring other better advice that he had, contradictory advice, the question remains this: Did Mr Berry accurately state the position of the directorship of VITAB even if we assume that Michael Dowd was a director of VITAB? Did he accurately and truthfully state the position to this Assembly? The answer,

Madam Speaker, is no because, although documents were tabled by Mr Berry purporting to show that Mr Dowd was a director, he did not table anything purporting to show that Oak Ltd was not a director, and he denied in this place that Oak Ltd was a director.

Mr Berry: When did I do that?

MR HUMPHRIES: You did that in the course of saying to us that we had it wrong when we asserted that Oak Ltd was a director several times in the course of previous debates when you said that Michael Dowd was a director. The fact is that you denied that Oak Ltd was a director of VITAB and now you are not tabling any evidence to prove that it was not a director. What is the story, Minister? Can we be told the whole truth? I think that we remain unable to get that information.

Madam Speaker, I want to make reference to a couple of other things. Ministerial directives were referred to by, I think, Minister Berry. He asserted that the giving of this instruction or this approval to ACTTAB to enter into the contract with VITAB did not constitute a directive under section 9 of the Betting (Totalizator Administration) Act 1964. I want to read a few sections from that Act. Section 9 says:

(1) The Minister may, by instrument, give directions to the Board in relation to the exercise of its powers or the performance of its functions.

(2) The Board shall comply with a direction given to it under subsection (1).

(3) The Minister shall cause particulars of any direction to be tabled in the Legislative Assembly within 7 sitting days of its being given.

... ...

Mr Berry argues that this matter of signing the contract with VITAB was not a direction. This is a function, according to section 9. It has to be a function in respect of which he has to table a direction. Turning to section 7 of the Act, that section is headed "Functions" and it says:

(1) The functions of the Board are -

... ...

(d) with the written approval of the Minister, to provide other services relating to betting.

So Mr Berry did give an approval, as he puts it, in respect of section 7(1)(d). He admits that. That is under a section headed "Functions". Section 9(1) says:

The Minister may, by instrument, give directions to the Board in relation to the exercise of its powers or the performance of its functions.

Mr Connolly: He can direct if he so chooses, but he did not. He signed an approval.

MR HUMPHRIES: Clearly, therefore, he was giving a direction to the board. He was saying that this contract should be entered into. He was not just saying, "Hey, I think it is a good idea, but you decide".

Mr Connolly: No. The board came to him and said, "Can we approve the contract?", and he said, "Yes".

MR HUMPHRIES: Was the Minister saying, "You people decide"? No, he was not. He was saying that this contract should be entered into. That is what he was saying. He was giving a direction. That matter seems to me to be extremely clear. I would like the Government to give us some legal advice about the matter if they think that there is some different interpretation.

Madam Speaker, the final point I want to make is that this Minister emphasised very strongly in the course of the debate that we held about the decorporatisation of ACTTAB that he was gathering unto himself the power - - -

Mr Berry: No; I do not use those words. I never did.

MR HUMPHRIES: That was the import of what you were saying.

Mr Berry: That is a bit of the old web of deception, Gary.

MR HUMPHRIES: Mr Berry, Madam Speaker, can be forgiven for feeling a bit testy tonight, but that is the import of what he said. He made it clear that he was giving himself the power to make decisions. He was giving himself more control, more accountability, over the functions of ACTTAB. He cannot defer responsibility for this matter to somebody else. He took an interest in the matter, he was briefed on the matter, and he followed the course of the matter on the floor of the Assembly.

Mr Kaine: He issued a direction on the matter.

MR HUMPHRIES: He issued a direction on the matter. He answered questions, or tried to answer questions or partly answered questions on this matter. He made statements on this matter. He made speeches on this matter. He issued press releases on this matter. He was deeply involved. To the extent that he had an opportunity to know what was going on about ACTTAB, it should have been the area of greatest familiarity of

any part of his entire portfolio by the time ACTTAB came to be expelled from VicTAB at the end of January. He does not have the excuse that he has used time and again in his remarks today, and that he has used selectively on various occasions since the ACT was expelled from the superpool, namely, that he did not know what was going on and he was badly advised. You cannot hide behind that cloak. If you can step aside from your responsibilities in that way, then no Minister need face that kind of responsibility in the future.

Similarly, with respect to an inquiry, if a Minister can avoid facing the question of whether he or she has misled the house by commissioning an independent inquiry into some related aspects of a particular issue, then clearly, Madam Speaker, no Minister need ever face again - at least not when he has had notice - a motion concerning misleading of the house. Obviously this Government believes that, if the Pearce inquiry comes back and says that the VITAB deal was okay, that settles the matter of Mr Berry misleading the house; there is no further issue as far as that is concerned. This Government cannot distinguish between the question of whether VITAB might or might not be a good deal and the question of whether Mr Berry has or has not misled the house. Let us be clear that it is possible that certain things that Mr Berry has said at various stages may have been truthful but might yet have in fact misled the house. Similarly, it is possible that he said things which were not true which might not have misled the house. Truth and misleading are closely related but are not the same thing. The Government does not settle this matter by having Professor Dennis Pearce conduct an inquiry into whether VITAB was a good deal or not.

Mr Connolly: But at least then all the cards are on the table and this house can debate any issue it likes.

MR HUMPHRIES: I know what you are going to say, Mr Connolly. You are going to come into this place, if it turns out that VITAB is a good deal, and you are going to say, "This exonerates Mr Berry". You are going to say, "Look, he has a good deal. There is nothing wrong with that". That is what you are going to say. We can read you like a book. Madam Speaker, I do not think that Professor Pearce is going to find that VITAB was a good deal, but that is for Professor Pearce to comment upon. The fact of life, though, is that misleading the house is a matter uniquely, solely, within the prerogatives of this place. I do not believe that an academic or politician or anybody else outside this place has the right to tell us whether or not we have been misled by a particular statement or statements made in this house. That matter is for us, not for anybody else.

I believe, Madam Speaker, that the evidence before the house tonight is quite conclusive about that matter. We have been misled. There are statements which simply are not true, and the Minister knows that they are not true. He knows now that they are not true, and he should have known some time ago that they were not true. We should be entitled to a better standard than that, and we can enforce that better standard only by passing this motion tonight.

MR STEVENSON (9.17): The question raised is whether or not this motion of no confidence in Mr Berry is a valid one. I think the debate has shown already that there are questions to answer and the Labor members have done their best to answer them in fine detail, together with providing documentation. The next question we come to is whether it is right that the Assembly should inquire into this matter at the moment, by means of this no-confidence motion, when an inquiry is current. An important point is that statements can be true but also misleading. Mr Connolly wonders about that, but it is true. Many statements are true whilst being misleading. One then could ask whether or not the statement was inadvertently misleading or deliberately misleading. Certainly, truth can be misleading, and a statement that is misleading can also be truthful. We are not looking at that, and we could not expect Professor Pearce to look at whether or not Mr Berry misled this house. I was concerned about whether we should be discussing this no-confidence motion while an inquiry is going on, but I think it is reasonable. This no-confidence motion today does not preclude any further action after an inquiry, regardless of which way the vote goes tonight. It is certainly the correct role of this Assembly to hold the Minister accountable.

Ms Follett said earlier that we should not take action until the facts are available to us, and I would agree. I am sure that none of us will do that tonight, or I certainly hope not. She also said that the Assembly is being asked to act like a jury and that that is inappropriate. I think it is appropriate that we do act not as a jury but like a jury. In other words, we should listen to the evidence, weigh it up and make a decision. It was also said earlier that it is not evidence that we are looking at today. I suggest that that is absolutely incorrect. Of course it is evidence. The dictionary definition of "evidence" is:

That which makes evident; ... Ground for belief; that which tends to prove or disprove any conclusion.

We are looking at evidence, even though it may not meet the legal definition, namely:

Information that is given in a legal investigation ...

Mr Connolly said that tradition has it that parliament waits until the inquiry is over. As I said, I had concerns about this, but I think on balance it is reasonable and it will not interfere with the inquiry if we look at this matter and make a decision tonight. When the Attorney-General mentioned that it was not appropriate, Mr Kaine made the point: If that is the case, why did the Minister not stand down? I thought I heard someone say that he did stand down from part of his responsibilities, although I am not sure about that. Perhaps that could be highlighted after.

The next point that I look at is whether or not there was competition from the other States. I think we could agree that Mr Berry indicated many times in his answers to questions that there was a great deal of competition going on for the VITAB deal. We know, and I do not think this has been disputed, that if there was any competition at all it was minimal. We have two different points of view from Queensland - one saying that they were vying for it and another saying that legally they could not and would not. However, that is not necessarily something we have to rule on. There is no question that the other States were not involved in negotiations with VITAB for the deal. I have seen letters from the various TABs around Australia indicating that point.

The question we must look at first of all is whether that was misleading. I think it certainly was misleading to say that other States were going for this deal. We should understand that that is the oldest sales line in the business, to get someone to make a decision in a hurry. The line is, "Look, I have someone else on the phone. Do you want to do the deal or not?". That being the case, I can understand why someone may not want to go out and ask other people who supposedly are in competition, "Are you in competition with us?". That is a viewpoint that Mr Berry could have held and he may not have wanted to talk to what he had been told was the competition.

The next point that I will look at is whether there were inducements, or could that be a problem. The information presented today, and logic, would tell us that inducements would be a huge problem, potentially, to TABs in Australia. I do not see that there is any doubt about that. Mr Berry has acknowledged that inducements can be a problem. The information that Mr Berry gave on 23 November was that VITAB is at liberty to give inducements, but immediately thereafter he tabled a letter from VITAB saying that they would not give inducements, that they would not try to lure punters in Australia overseas. I believe that that letter is not legally binding. I have read the opinions of the two solicitors on that and, when you look at them and look at the letter, I think it is agreed that it would not be legally binding.

One of the questions that Mr Wood brought up and that I was interested in was how the TABs were doing around Australia, particularly in Victoria. I would like to see a month-by-month turnover in Victoria for the last 12 months. That would be interesting. We are told that the ACTTAB turnover has increased 6 per cent in the last year. I wonder which part of the last year and I wonder how it has been going over the last few months. Perhaps that could be supplied. In other words, there could be changes that have occurred more recently due to an increase in the turnover of VITAB in Vanuatu.

One of the points I look at is ministerial responsibility. There is no question, or there should be no question, that the Minister is responsible to the parliament. We also have a responsibility, on behalf of the people of the ACT, to ensure that the Minister does his job. There is no question of that. One of the points that I am concerned about, and this has been an ongoing concern for five years, is whether Mr Berry was helpful as a Minister at least to other members of this Assembly when he had access, presumably, to all the information, or certainly could have gained the information. I think one must come to the conclusion that he was not being open and helpful to the Assembly or to all members in the Assembly. One can suggest that there might be reasons for this if someone feels that they are going to be attacked. However, a Minister has a responsibility to serve the parliament, and I am not sure that that was done.

One point that was made by the Chief Minister just before we recessed for a break was that that was an appalling or atrocious thing and that we should not do it. She said that the Liberal Party members should not go and have a meal and should not have the opportunity to lobby other MLAs. I suggest that it was a perfectly valid thing. I think it is a trifle unfair to suggest that only they would have the opportunity to lobby MLAs. Everybody has had that opportunity. I think that Ms Szuty, Mr Moore and I have been totally open to anybody to come along to us and to present any information. I think the three of us have spent a considerable amount of time allowing people to do just that.

It did not matter which side they were coming from or when it was, because we certainly understood that it was a very important matter. I do not think that our minds were made up before, even if they are now. This is a very detailed thing that one needs to weigh. The adjournment helped. At least it gave us some time. That is a reasonable thing.

Ms Szuty, when she talked about reading the questions and the answers of Mr Berry during question time earlier this year, mentioned that it was hard to follow some of the questions because of interjections. I had had that same thought. It does tend to take someone off their train of thought when you interject. If you just let someone go, that is what they said. Later you can say, "He gave the whole lot". With all the interjections, I found it was all over the place. Then you wonder whether the question was answered at the end, and whose responsibility was that? Was it the Minister's, because he had no intention of answering, or the interjector's, because it just went all over the place? It is a problem.

I come now to a major situation with the Victorian TAB. That is a key and it relates to just about every question we have. There is no question that Mr Berry knew that VicTAB had given notice to break the deal. There is also no question that he did not tell the Assembly when questions were asked, or even regardless of there being questions - - -

Mr Berry: There was never a question asked about that, though. Put that on the record, too.

MR STEVENSON: I am getting to this. Mr Berry mentioned that there was never a question asked about that. There are a couple of points. First, should he have told the Assembly, regardless of whether or not questions were asked? Secondly, and perhaps more importantly, when the matter of the entire situation and meetings with all TABs was raised, one would suggest that at that time he had a responsibility to inform the Assembly as to a situation that placed the deal in jeopardy, to say the least.

Mr Berry: You are talking about 6 December?

MR STEVENSON: Yes, early on in the piece; when we came back into the Assembly. Ms Szuty mentioned that the cessation of the deal was confirmed on 14 February. In other words, they said, "No, we are not going to have a bar of it". I can understand someone in a commercial situation wanting to go and negotiate. That is a logical and sensible thing to do. You never shut that door until the last minute and you have made some other deal that precludes you from doing it. So I can understand that. Was there any other opportunity for Mr Berry to let us know without endangering what he may have felt was commercial activity? Indeed, there was. There was nothing that would have prevented Mr Berry from coming to members in this house and saying, "Look, if I answer questions in this house directly about this issue there are some points that might seriously jeopardise the commercial activity of the whole deal". We could look at that and make a decision on that.

Debate interrupted.

ADJOURNMENT

MADAM SPEAKER: Order! It being 9.30 pm, I propose the question:

That the Assembly do now adjourn.

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

Question resolved in the negative.

MINISTER FOR SPORT
Motion of Want of Confidence

Debate resumed.

MR STEVENSON: Mr Berry has suggested that the VicTAB deal was cancelled because of privatisation. Let us look at that. Certainly there were some changes in Victoria; but, if it was beneficial for Victoria to be involved in a commercial deal with the ACT, why would they want to pull out? I have heard no single reason suggested by anyone, particularly Labor members, that there was any other possibility of a commercial reason. Raymond Burr used to present all sorts of possibilities as to what might have happened, but in this case we have heard not one. I think most people here have the clear understanding that the reason the deal was terminated was that we had an agreement with a Vanuatu based organisation. So does Victoria, but they are the big player in the superpool and they own the company in Vanuatu. That would make a difference.

Mr Berry stated again a few moments ago that when he was answering questions it was to do with VITAB not VicTAB. One would suggest that the two run very closely together, particularly when you talk about meetings that everyone was in on. I look forward to any points that the Minister or other members could bring up on this. I am sure that any member who wishes to raise any more points will be given time to do so.

The next point I look at is Mr Berry's statement in answer to questions that the deal was safe for the ACT. Leave aside the VicTAB deal that he knew at the time was threatened, to say the least. If he was talking about only whether the VITAB deal was safe, I would suggest that the VITAB deal was not safe. If we are not in VicTAB, logic would have it that we are not going to be in the New South Wales pool unless we somehow unload our agreement with VITAB. That is an important point that we need to look at. There is no doubt that the deal was not safe, and is not safe. I would suggest that anyone that understood - - -

Mr Berry: It is safe for the Territory.

MR STEVENSON: Mr Berry says that it is safe for the Territory. It is not safe for the Territory. Who else can it be not safe for if it is not the people of the ACT whose money we are using here?

Mr Berry: We have the money in the bank.

MR STEVENSON: Mr Berry mentions that we already have money in the bank. That is true. Perhaps it could be used to pay the queen's counsel that is going to be used to fight the case - not that $50,000 would last very long at their rates. Mr Berry also raised the point, as have other people, of whether there is value in access to the superpool or whether we are perfectly happy to go it alone as an ACT pool. The truth of the matter is that you have to have a larger pool to attract a lot of punters. Mr Berry, as has been reported, talked about one local punter who received some $40,000 instead of about $3,000 because we were associated with the superpool. That makes sense. It is valuable to the ACT to be in the pool. I say that the very fact that we have an agreement with VITAB makes the situation unsafe. I think most people would agree with that. Sooner or later punters are going to realise that they can go offshore and get a better deal, if inducements are offered, and there is no suggestion that inducements cannot be offered. A document from VITAB dated 8 November 1993 says:

... VITAB will be providing the opportunity for the region -

this is Asian and Pacific nations -

to bet on Australian races utilising a variety of betting services ranging from traditional telephone betting accounts to sophisticated computer-to-computer technology.

If anyone could suggest to me that VITAB could make sure that Australian punters were not betting on their pool I would be most interested to hear it. Obviously it is impossible. No-one should suggest, in all seriousness, that it could not be circumvented in any of a hundred ways. In talking about the matter Mr Berry mentioned that punters can place a bet anywhere in Australia. They can do so not only anywhere in Australia but anywhere around the world. In this age of electronics it is very easy. It would be impossible in most cases for someone to check, even if you had a full-blown inquiry and tried to track them down. So the inducement situation cannot be prevented.

The letter from VITAB saying that they had no intention of doing any such thing was more like a policy statement. I think we can understand why they made it. That was a reasonable thing to say. As far as changing that policy is concerned, as the solicitor's letter said, they would have that right. I am sure that Mr Connolly would not suggest that that was a contractual arrangement binding on VITAB.

Mr Connolly: We never said that it was.

MR STEVENSON: I know. That is why I said that I am sure that you would not, and you have not.

Mr Berry: It is arguable, though.

Mr Connolly: We have said that it is an assurance, and it could give rise to an action.

MADAM SPEAKER: Order!

MR STEVENSON: One could argue anything, but it is not a tenable argument; it is not a realistic argument. The deal was not safe for the ACT. Mr Berry said that it was and I suggest that that was misleading. One can ask whether that was deliberately misleading or whether that was inadvertently misleading, because he may have believed that.

Another point, and this is vital, is to do with the bona fides of a company that this Territory was looking at dealing with. I suggest that when it comes to taxpayers' money one of the major responsibilities for a government, any government, is to make absolutely certain that we do not jeopardise taxpayers' money by commercial deals. A lot of people would say that governments should not be involved in commercial deals, and one can understand why. If the Government is going to get involved in commercial deals it should make absolutely certain that everything is checked. That does not mean to say that one could not end up with problems - this is true in any situation - but you should minimise the possibility of that happening.

Mr De Domenico: Before the contract was signed.

MR STEVENSON: Before the deal goes ahead. In this case it was not an ordinary commercial deal. We are talking about gambling; potentially we are talking about vast sums of money. In this situation there is no doubt that this Assembly and the Government had a vital role to play to make sure that we did not do anything that endangered the ACT. Mr Berry told the Assembly on more than one occasion, in answer to questions, that the bona fides of the company directors had been checked out by Price Waterhouse. He did not say that they had been checked out by the Government Solicitor's Office or the Treasury, and he did not need to. That was not their role. Mr Berry said on 23 November:

I was given assurances about that - the legality and financial security of the arrangement - by the Treasury and the Government Solicitor's Office.

Indeed, that is their role. It is the Government's role to make certain that the bona fides are checked out. That responsibility falls directly on the Government. The Government is not necessarily expected to go out and do those searches. We do not expect Mr Berry to start checking records and to inquire into this, that and the other. It is reasonable that someone be hired to do these things as well as to have the involvement of the police. Mr Berry said in answer to questions that Price Waterhouse was hired to do these things, but I suggest that they were not hired to check out the bona fides. There is a big difference between a company check and the bona fides.

Mr Berry: I explained that in my speech.

MR STEVENSON: Perhaps you could do it again because there is a great difference. Bona fides involves good faith and the character of people, to a large degree, and not just the monetary situation. On that specific point, Mr Berry did mention - this may be the point he refers to - that the company, VITAB, was required to put forward a security deposit of $50,000 which, I am told, resides with ACTTAB. In other words, we have the money and if the contract were broken that would go. That is not a $2 sum, I agree.

That is reasonably substantial backing. We were told that the directors had to give some financial undertaking. I am not sure what that was, whether it was substantial or not. In other words, I do not know what relevance we can place on that. If the Minister or one of the members involved could let us know, that would be helpful.

Mr Berry mentioned that the directors were checked by Price Waterhouse. I remember going over the debates and thinking about what he said. At the time I got the idea that Price Waterhouse had done the job and I naturally assumed that the bona fides had been checked, not that there was just a company search. I think enough evidence has been presented to this Assembly to suggest that the bona fides had not been checked. What the police did in the very recent past is not all that relevant. It may be relevant, but we are talking about what happened before the deal was done. We are talking about when questions were first being asked in the house.

What were the bona fides of the directors? We have heard that Mr McMahon was charged but not convicted. If someone is charged but not convicted they are innocent before the law. That is a very important point. However, were I involved in checking out the bona fides of someone and found that they had been charged for gambling offences, though found innocent, that would alert me to the fact that I needed to make extra checks. I would have someone go over the evidence that was presented. I would have someone contact the police involved and say, "Look, what was the situation? Why was he charged? Did you fellows make a mistake?". I am not 100 per cent sure that the charge has been finalised. I would presume so, although there was some suggestion that it is still going on.. There was also a statement that Mr Bartholomew has been charged and convicted. While not a director or shareholder of any companies involved in this, as far as we know, there is no doubt that he had some involvement. If someone was approaching the Government on a gambling matter you would get a list of everybody involved and check them all out, for fairly obvious reasons.

Mr De Domenico: Like the casino.

MR STEVENSON: As Mr De Domenico says, "Like the casino". That is normal. It is not that we have not had any experience in this Assembly of doing this. We have had enormous experience because we had the casino situation. We had an inquiry into a casino. It is vital that we check out these things. I remember that we went to South Australia on the casino inquiry and we were told by someone in charge there that there were no problems with directors associated with their casino. I went along to the local newspaper morgue, got out their files and read of two cases that involved directors of the company that we had been told had been given a clean bill of health. That suggests to me that there are many situations where people are not accepting their responsibility. One could always debate why that is so.

There is no doubt that the Minister has a responsibility to give information to the parliament and that he has a duty of care. If a Minister makes a mistake or is misled by a member of his staff, it is perfectly reasonable; it has happened many times. We have all made mistakes in this Assembly in things that we have said and we have all stood up and

said, "Look, I am sorry; I made a mistake about that". This is a matter of being prepared to work with the Assembly and acknowledging the truth. If someone was misled you can say, "Okay, I will re-evaluate that and now I will make another decision.", if that is necessary.

Mr Berry has suggested that the company was a public company. He suggested that it was an Australian based company. That is an important point because it is a Vanuatu based company and it is a private company, not a public company. As was mentioned before, Mr De Domenico could go along to the local securities commission office looking for company records to do with this company and never find them. Another point that was raised was Mr Berry's legal requirement to notify the Assembly within seven days of any directions he had given to the TAB. I am not sure whether the approval was a direction. It was not a direction; it was an approval. Mr Berry's involvement in the entire deal would tend to suggest to me that it was a direction, but I am not sure. It would suggest that because he had taken this deal on and was really going for it. It did not really seem like a direction.

Mr Berry: Say that again.

MR STEVENSON: What I am interested in is the approval idea as against a direction by you to the TAB.

Mr Berry: You have a letter there.

MR STEVENSON: I know that it mentions approval; that is why I am not sure.

Mr Berry: Have a look at the Act. Have you had a look at the Act?

MR STEVENSON: I saw it in the Act as well. What I said was that I am not sure - that is all - although one can be swayed slightly towards the idea that it was a direction because of your involvement in the whole thing.

Mrs Carnell: They could not have done it without it, could they?

Mr De Domenico: They could not have done it without it. That is right.

MR STEVENSON: Yes. The Minister has a responsibility in many matters and in a number of cases he did not present to the Assembly things that he was aware of. He may not have been aware of some things, but there is no question that he misled the Assembly. The question that we have to decide is whether that was deliberate or whether that was inadvertent.

Mr Berry: Run down the issues where I have misled the Assembly again, quickly, so that I can write it down.

MR STEVENSON: I have just spent a fair bit of time doing it in detail, and I picked them up one at a time; but let me do it again - not on the whole thing, just on a couple of points. One is the bona fides of directors. Mr Berry said that they had been checked out. They had not been checked out. The next point is that there was little or no competition, when Mr Berry suggested that there was a great deal of it. Mr Berry said that it was safe for the ACT. The truth of the matter is, as we now know absolutely, that it was not safe for the ACT. I mentioned that the mere fact that we entered into an agreement with an offshore company made it unsafe for the ACT. Whether or not it panned out, that still made it unsafe. Even if it finally worked there was danger there. The next point is that Mr Berry did not tell us about VicTAB when he could have. He suggests that the VicTAB deal was not connected with the Vanuatu deal, but that is drawing a longbow. One would suggest that they are intimately connected - it might be like saying that your rear wheels have nothing to do with your front wheels - because they rely upon each other.

I am happy to mention those key points that I looked at. Even if Mr Berry considered that there were commercial interests that would have been jeopardised by going public and telling people in Canberra, telling members of the Assembly and answering questions, there were other avenues that he chose not to take. He did not come along to us and ask us not to go public with vital matters. There is no doubt that it was going to come out in the long run. No-one could suggest that Mr Berry intended to hide this information. The situation was only ever postponed. In that regard he has a point. He could have talked to other members in this Assembly, and I am interested to know why he did not.

MR MOORE (9.53): Madam Speaker, with 17 members in the Assembly, a situation such as this is invariably difficult. It is a responsibility we have to face. We are all conscious of the fact that we work very closely with each other. If the outcome tonight is that Mr Berry loses his portfolio, we are conscious that we are then going to have to work with him on committees, for example, and that we will continue working closely. I think in many ways that makes the responsibility we have before us much more difficult than it is in other parliaments.

One of the most important parts of this motion is that it deals not just with deliberate misleading of the Assembly but also with reckless misleading of the Assembly. It is not good enough, when we are talking about a reckless misleading, to say, "I did not know". It is not good enough to say, "Well, that was my advice". It is not good enough, Mr Stevenson, that something was done in an inadvertent manner when there was a responsibility to know. It is not good enough when somebody is working just on the advice of their own advisers when they had a responsibility to know. That would be reckless.

This motion, which takes its form from the work Gary Humphries had done on that Senate inquiry - I think the word "reckless" came from the Senate inquiry - is something we have to consider very carefully. I would like, first of all, to talk about the inquiry, which was the subject of the addresses by the three Ministers other than Mr Berry, all of whom argued that because we have an inquiry we ought not to be addressing this issue now. If we allowed ourselves to be swayed by that argument, it seems to me that an

inquiry process would be used as a way of ensuring that ministerial responsibility to the parliament was never available. An inquiry process is a process to examine what happened. It is not an opportunity for a Minister, or a government, for that matter, to try to shift responsibility for how it is dealt with in this chamber.

I found it ironic, in a way, that we had Labor members arguing so strongly, when this issue was raised before, I think, by Mr Wood, that they were influential in ensuring that Nick Greiner was taken out. The result there, after Nick Greiner came back and said, "See, I was cleared", was interesting. It seemed to me that he was not cleared from his parliamentary responsibility. He may have been cleared from his legal responsibilities and, similarly, it may well be that the result of the inquiry will find that all was well. That has nothing to do with what is happening here tonight. If an inquiry finds that all is well but the Minister is found to lack the confidence of this Assembly, it would seem to me that that will be fine. They are two entirely different things.

I would like to address the way I saw things. Madam Speaker, I did not ask any questions about VITAB. In fact, I sat back and watched the Liberals asking the questions and often wondered why it was that they were asking them and what they were pursuing. I said to Mrs Carnell out of the chamber on a number of occasions, "What is the point of this?", and the reply was to the effect, "There really is something in this, you will see. Would you like a briefing at some time?". It was one of those things that were not particularly high on my agenda, so I did not get around to getting the briefing from the Liberals until after the last sitting. Why was that? It was because I had the impression that, really, there was nothing in it, that all was really well, apart from a bit of muckraking coming from the Liberals. But the truth of the matter was that things were not well.

I am going to run through the points, even though other members have done that, to show how I perceived these things. I will take point No. 1, the competition with other TABs. The impression we had was that there was competition - not with one TAB, not with just Queensland, but with other TABs. I am sure that we could go back to the Hansard to find it. The reality is that the impression was gained that there were other TABs - not just one, but others - going for this deal and that they missed out. The only evidence presented is the evidence about Queensland. So immediately we have a problem in terms of its being plural. But, even in terms of the evidence presented on Queensland, we have a letter from the Queensland TAB that makes it very clear that VITAB had approached Queensland and there was just nothing in it.

The director of VITAB seemed to have a different idea. He had not finished with Queensland. From his perspective, he probably had not. He probably still wanted to do a deal, and he probably still thought he could go to Queensland if he wanted to. How do we know that? We know that through a statutory declaration by Mr Philip Neck. I have no question about the genuine nature of the statutory declaration from the point of view of Mr Neck.

The reality is that it is evidence at a third remove. It is saying, "This person said to me ...". If there was to be a genuine piece of evidence, it would be a statutory declaration from Mr Kolomanski. When you consider his involvement in this business, one would have to give great weight to a statutory declaration by Mr Neck. I do not give weight to the evidence presented at a third remove in that statutory declaration, and I am referring to part 2. So really that piece of evidence is nothing. I still have doubts at this stage as to what we have been told in the Assembly - that there was competition with TABs, plural. Why were we told that there was this competition? To give the impression that it was a good deal, that everything was going well.

On another point, why were we told that this was an Australian company? Because we are going to feel much more comfortable with an Australian company than we are with a company in Vanuatu. To the best of my knowledge, that matter still has not been corrected. Why were we told that it was a public company and not a private company, a company that is really not open to scrutiny? To give an impression to us that all was well, and that was the impression I had. Of the directors, why were we told that Mr Dowd was a director, along with Mr Kolomanski and Mr McMahon, I think it was? Why were we told that that was the case when Oak Ltd was a director as well? Because having a company as a director in a deal such as this - a company that we could not search, a company that we cannot find out anything about - would have rung a lot of bells. Instead, we have an impression that all was well.

We have, with today's date on a fax from Dan Kolomanski consultants, a page marked "Confidential", which Mr Berry said that he was able to table, from VITAB Ltd purporting to be of its 10 October meeting. As Gary Humphries has said, how do we know that is the 10 October meeting? I must admit that I still have my doubts about that. What about the bona fides? We have heard the case on that, but the evidence presented to us includes a statement from the Australian Federal Police on a search done through Macphillamy Cummins and Gibson. It is a police certificate, name check only, and Cornelius McMahon is okay. Why do we know that he is okay but we cannot check the others? The question I asked Terry Connolly to clarify for me was whether the criminal indices of the Australian Federal Police include other States as well or whether it is just the Australian Federal Police. He was able to provide me with the information that the Federal Police indices include all the other States; so that is fine. But we have a privacy problem. We can find out about Mr McMahon because he has no convictions - I think that is correct.

Mr Connolly: No; he must have signed a consent.

MR MOORE: We can find out about Mr McMahon because he gave permission, because he consented. When I go for my bus driver's licence or a public licence, I have to have a police check. The first thing they ask you for is your permission to do that kind of search. How much more important is it in this kind of search that the bona fides of somebody can be checked? You can ask Dan Kolomanski, McMahon, Dowd, or whoever, for that permission, saying, "We are not going to do a deal with you until you have given us that permission". That is how we do the check. There is no privacy question; it is not a problem because you have to do it that way, and it ought to have been done that way. If this check was not done to that calibre, after questions had started to be

asked at least, then we are looking at that problem and trying to deal with that problem of recklessly misleading the Assembly. We are still saying, "Yes, the directors are fine. There is no problem with bona fides. The checks have been made as far as they can be, but not done thoroughly enough", and the Minister has to wear some of those responsibilities.

On the question of inducements, I find a much weaker argument. The Minister always said about inducements, "This is the letter I have" - he gave us the text of it and, I believe, tabled it - "about inducements", after he had done his correction. That correction was done on the same day, so that is not a question. I think the legal opinions indicate quite clearly that the letter is not good for much; nevertheless, Wayne Berry was always referring to that letter. It was then our responsibility to decide whether or not we thought that letter he relied on was a good thing or a bad thing or whether that was enough or not enough.

I do not find a case of misleading in terms of those inducements, but I do think it adds to this whole impression that everything is hunky-dory, that everything is good. As part of saying, "Yes, things are good", we got in the last sittings in March the good deal and, more importantly, the safe deal. It may well be that I have an old car with lots of things falling off which I drive very fast from here to Adelaide and back - as far as the speed limits allow - and nothing happens. That does not make it a safe car. A safe car is one with the appropriate safety equipment - seat belts and good tyres and so on - not a bomb with bald tyres. You might be lucky. That is why, when the inquiry determines whether or not this came out well, it is not going to tell us to what extent it was a safe deal and to what extent the Minister's impression in this Assembly was able to indicate to the Assembly just where he was. These are the sorts of questions that ought to be answered.

Should the VicTAB deal and the cancellation of the ACT from the pool be seen in isolation, as indeed the Chief Minister and Terry Connolly would have us do? Of course it cannot be seen in isolation. It is an integral part of this whole impression as to whether or not it is a good deal or a bad deal. The Victorian TAB letter of 2 March to Mr Neck says:

I refer to your letter of 25 February 1994.

Contrary to what is stated in the first paragraph of your letter, at no time during our meetings did I state that the reason for giving the notice of termination under the Pool Amalgamation Agreement was because of the agreement entered into between ACT/TAB and VITAB Ltd.

They did not give that as a reason; they never gave any reason. Quite specifically, the first paragraph of Philip Neck's letter - and the Minister was generous enough to allow us to read the first paragraph of that letter, the other parts being commercial-in-confidence - stated quite clearly that the VITAB agreement was the reason. This is what we have to resolve. The reply was, "Contrary to what you are saying, we have never given that as the reason. It is not the reason. We have never given it as the reason". There are lots of

explanations as to why they would not give it as the reason. But why would it be anything else? The Minister has not provided a good enough alternative reason as to why VicTAB may have taken that action to cut off its nose, to reduce the amount of money it was getting through having a good business deal with ACTTAB.

The sixth point I would like to deal with is the notion of the Minister having a responsibility to table the direction he has made under section 7 of the Act. I find that unconvincing. It should have been required, but I think there is doubt over that legislation as to whether or not he would be required to table that. I do not think it has a great deal to do anyway with the notion of misleading, and this motion is about misleading, whether it is deliberate misleading or reckless misleading.

In an interjection towards the end of the second speech of Gary Humphries, Wayne Berry used these exact words, referring to the Liberals: "It is a web of deception". I found some irony in that. It seems to me that, when we have an impression created that everything is great and going well when it is clearly not, when there clearly are problems that could easily have been shared either in this Assembly in a public way or, as Dennis Stevenson and Helen Szuty have said, in a private way, as indeed the Minister has briefed us on a number of occasions before, then the words "web of deception" ought not apply to the Liberals. It is not just a case of giving an impression that everything is going well; it is also having the opportunity again and again to correct that impression, particularly because this Minister knew at the end of January and the beginning of February that the relationship between VicTAB and ACTTAB had been soured and that notice had been given. That was followed up in writing very shortly after, I think, and members have the details at their fingertips. Madam Speaker, as I sat in our former abode listening to those questions of the Libs, I remember thinking, "Why are they asking these questions?". The reason I kept thinking, "Why are they asking these questions was that the impression I had was that all was well.

MR CORNWELL (10.13): Madam Speaker, I seek leave to speak briefly again on this matter.

Leave granted.

Mr Moore: Very briefly, I hope.

MR CORNWELL: I thank members. I was about to compliment you, Mr Moore. I will still do so. I wanted, first of all, to refer to some comments Mr Wood made about this question of honesty and integrity.

Mr Wood: They are the words you used.

MR CORNWELL: Indeed I did, and I stand by them. That does not mean, Mr Wood, that the Minister concerned has not been deliberately or recklessly misleading the Assembly. Nobody is impugning Mr Berry's honesty. Nobody is suggesting that he is dishonest.

Mr Connolly: I think you are. You are just saying that he is lying to the Assembly and must resign. Apart from that, he is a nice bloke.

MR CORNWELL: Just a moment. Nobody is suggesting that he does not pay his taxes. Nobody is suggesting that he does not pay the milk bill. Nobody is suggesting that he lacks integrity in those areas in which he believes, whatever they may be. But most certainly he has been reckless, as Mr Moore very succinctly pointed out, in relation to his dealings with this Assembly, and certainly in the minds of some people here he has also been deliberately misleading as well as recklessly misleading.

I would like to touch briefly upon two aspects of Mr Berry's statement this afternoon, the reference to inducements and the reference to the involvement of other States - plural - in the competition for VITAB. Ms Szuty, I think it was, suggested that the Minister might have been carried away with enthusiasm in using the plural in relation to the competition of other States with the ACT. I find that a little difficult to believe, Ms Szuty, because on 16 March Mr Berry was quoted as saying:

There were other State TABs -

plural -

interested in the operation, but we were successful and won the deal for the Territory.

On 17 March he is quoted as saying:

... and people have to understand what the Liberals have discovered - they've discovered that the ACT was the successful tenderer, if you like, for a deal with VITAB ...

Again, there is the suggestion that there was strong competition and the ACT was the successful tenderer. Finally, on 19 March, when he was interviewed on a radio program, he said:

Well that's right. I mean, we were competitors in a race to get this contract because there are significant benefits in it for the winner ... and we won, and as a result, other States -

plural -

missed out. Now ... I think there was a bit of anxiety around the country over that but it was a plus for the Territory.

The fact is that there was not any competition at all. As Mr Moore quite rightly points out, the involvement of even the Queensland TAB was very minor. They were approached, we understand, by VITAB. However, they knocked it back on the basis that they could not legally involve themselves in such a thing. So where is the competition, Mr Berry?

Mr Berry: They have a unicameral parliament and a majority.

MR CORNWELL: It must be getting very late, because I do not know what you are talking about. A unicameral house? Mr Berry, where was the competition with other States for this VITAB deal? There was not any. How, then, can you justify your statement this afternoon:

... I believe I had a reasonable basis for saying that ACTTAB was in competition for the VITAB agreement and that I have not misled the Assembly on this aspect of the matter.

I turn now to the question of inducements. We find that on 23 November Mr Berry said:

There is a written undertaking as part of the contract stating that VITAB will not offer inducements. That is part of the contract, according to my advice.

That was the day he came back in the evening and corrected his statement and said:

... I am advised that in fact the agreement is silent on the issue of inducements ... Members should appreciate that the offering of inducements to investors is purely a commercial decision and TABs, like any other business, are not legally precluded from using such methods to attract business.

Again, on 18 December 1993 he stated:

Inducements are a problem ...

... the potential for the payment of inducements to Australian punters through offshore arrangements was recognised ...

However, on 1 March, in response to a question from Mrs Carnell, Mr Berry is recorded on page 295 of *Hansard* as saying:

As far as Mrs Carnell's question is concerned, it is obviously aimed at the issue of inducements, and I have told this chamber, I do not know how many times, that the issue of inducements is a clear one; that is, that VITAB have given us a written undertaking that they will not offer inducements to Australians.

On 23 November and 8 December 1993 you acknowledged the problems associated with inducements, and on 1 March 1994 you said:

... the issue of inducements is a clear one ...

VITAB have given us a written undertaking that they will not offer inducements ...

Mr Kaine: That was that week.

MR CORNWELL: Indeed, Mr Kaine, because finally on 12 April - today - he is back again on this written undertaking of VITAB. I think these words are rather important, considering what he said on 1 March:

VITAB has provided a written undertaking that it will not knowingly seek the business of Australian resident customers by way of rebate, any other inducement or any other similar means.

I submit that the Minister does not really know what is going on in relation to these questions of inducements. As I said earlier in debate this afternoon, we on this side of the house have two letters - one from Mallesons Stephen Jaques and the other from O'Connor Harris, both legal companies - indicating that, whatever written agreement VITAB may have provided, it is totally worthless in terms of being held as a legal document in relation to the question of inducements. Minister, that is my second contribution to the debate - - -

Mr Berry: What is the relevance of that to what I said in the past?

MR CORNWELL: I think the relevance is that I am not at all sure that you know what you are on about on this. I repeat that this is my second contribution to this debate - - -

Mr Berry: Did I mislead you?

MR CORNWELL: In answer, yes. This Assembly lacks confidence in Minister Berry by reason of his deliberate or reckless misleading of the Assembly. I rest my case.

MR DE DOMENICO (10.22): Madam Speaker, I seek leave to make a brief statement. It is the second time for me too.

Leave granted.

MR DE DOMENICO: Madam Speaker, I am going to be very brief and will limit my comments to the evidence as presented by Mr Berry tonight before the dinner break. Mr Berry interjected to Mr Cornwell just now and he said that he misled. Mr Berry, on 7 December, in answer to a question, you said:

It is a public company, and Tony De Domenico can do a search through the ASC company records, if he wants to confirm that.

I think, Mr Minister, you will concede now that on 7 December 1993 you said, "It is a public company". Have you ever come back to the Assembly or anywhere else and said that it was not a public company, that it was a private company?

Mr Berry: No. Go to page 4462.

MR DE DOMENICO: That is for you to answer, Minister. That is point No. 1. Point No. 2, Mr Minister, is this: You also presented to this Assembly a document which was transmitted to you today, signed by Daniel Kolomanski. Ms Szuty, in fact, asked a question before, saying that she was confused because of the company structure or whatever. I am going to suggest to you, Mr Minister, that the only change that this document tells us is that, as well as Daniel Kolomanski, Mr McMahon and Oak Ltd, there may be, if we believe this piece of paper, a fourth director now, a Mr Dowd. That still does not mean that you did not mislead the Assembly because, when you were asked repeatedly, even in interjections sometimes, "What about Oak Ltd?", not once did you acknowledge that, in fact, Oak Ltd was a director of VITAB. This piece of paper that you presented does not say that Mr Dowd is a director in substitute for Oak Ltd. It just says that Mr Dowd has been added as a director. Why did you not tell us that Oak Ltd was a director?

Mr Berry: I think I said that I would look into it and report back.

MR DE DOMENICO: No, no. You said that you had done a search. You got Price Waterhouse to do a search.

Mr Berry: No, I said that I would look into that and report back later.

MR DE DOMENICO: Thank you. That is the interjection I wanted. The Minister said, "I said that I would look into that and report back later". Minister, you did not report back later. The earliest you reported was today.

Mr Berry: That was the last sitting, I think.

MR DE DOMENICO: The earliest you reported was today and you gave us this facsimile of something that is not even on a letterhead. That is another point. Minister, on the Matthew Abraham show on, I think, 17 March, you said:

What's wrong? All of a sudden there's an aversion by the Liberals to dealing with private companies.

You cannot have it both ways. Either it is a public company or it is a private company.

Mr Berry: So I said that it was a private company.

MR DE DOMENICO: What did you say to the Assembly? You said that it was a public company. You said:

It is a public company, and Tony De Domenico can do a search through the ASC company records, if he wants to confirm that.

That is what you said. Mr Minister, you presented a statutory declaration, signed by Mr Michael Dowd, suggesting that he had nothing to do with Mr Alan Tripp. No-one ever suggested that Mr Dowd had anything to do with anything. No-one asked you whether he had anything to do with Mr Alan Tripp. May I ask you another question?

If you required Mr Dowd to sign a statutory declaration, and we assume that Mr Dowd is a director of VITAB - we believe that, let us say - have you asked Mr Kolomanski and Mr McMahon or any of the directors, if there are any, of Oak Ltd who are also directors of VITAB to sign a statutory declaration that they had nothing to do with Mr Tripp or Numbawan? Why did you ask Mr Dowd to sign a statutory declaration? We did not ask for that. What about the other directors? We would like your answer to that one.

I turn to the other area of the bona fides. Minister, the Liberal Party, taking into account privacy provisions and everything else that was mentioned by everybody else in this house, did a check, although not a proper check because of our limited resources. If we had more resources we probably would be able to find out more information than we have. You acknowledge that Mr Peter Bartholomew was here perhaps for only one meeting. It does not matter whether he was here for one meeting or for 101 meetings. The fact that Mr Bartholomew was involved at all in negotiating this contract on behalf of VITAB - hopefully he was not working on behalf of the ACT Government - would have, to me, rung alarm bells. Who is Mr Bartholomew? We know who Mr Bartholomew is. Mr Bartholomew has been convicted twice, once in 1981 for conducting a place used for gaming, and once in 1982 for using premises for betting.

In response to that you presented a letter dated 12 April, today's date, about Mr Bartholomew from the ACT Magistrates Court which said that the ACT Magistrates Court had no record of Mr Bartholomew. That is fine. We could have told you that. Why did you not write to the Victoria Police? From 1991 on we have nothing on Mr Bartholomew. The Victoria Police would have told you that in 1981 he was convicted of conducting a place used for gaming. The Victoria Police would also have told you that in 1982 he was convicted of using premises for betting.

Mrs Carnell: It was on television.

MR DE DOMENICO: If you had watched television you would have known that. Had you read the *Sydney Morning Herald* you would have known that, because they checked him out as well. Mr Stevenson made a salient point. Had we not done checks in the casino situation we could have ended up with anyone, for heaven's sake. Here we are doing a deal, negotiating a contract involving public money, with a person who has been convicted twice of SP bookmaking. Does that not ring alarm bells to you?

I want to talk now about Mr McMahon and another letter that Mr Berry tabled. Had Mr Berry looked deeply into the situation he would have known that Mr McMahon was charged in 1988 with "suffer betting" and "keep control of premises for the use of betting". Mr Berry, you did not know that Mr McMahon was not convicted of that until 17 March, because today you tabled a letter dated 17 March. Why did you sign a contract, and let Mr McMahon sign a contract, in October last year when you did not know until 17 March that he has never been convicted? You would have known that he had been charged because he was charged in 1988.

Mr Berry: You are not allowed to hang them until they are convicted, Tony.

MR DE DOMENICO: Mr Berry says, "You are not allowed to hang them". We are not talking about hanging anyone, Mr Berry - perhaps save you tonight. Do you think it is right for taxpayers' money to be put on the line to do deals with a private company registered in a tax haven and whose directors and representatives have been either convicted of SP bookmaking or arrested for SP bookmaking, not once, not twice, but on numerous occasions? Do you believe that you have gone through this meticulously, in the same way as the Chief Minister did when she awarded the casino contract? Once again, it is interesting to compare this with that. We are talking about similar amounts of money. Mr Berry, I want you to answer this question when you get up on your feet again: Do you think it is wise for governments to enter into gaming contracts which are negotiated or partly negotiated by people convicted of SP bookmaking offences? If the answer to that question is yes, I am very concerned if you are entering into any contract with anybody, to be very honest with you. If the answer is no, why did you allow Mr McMahon to sign the contract and why did you not know that Mr McMahon had been charged with SP bookmaking? Why did you allow Mr Bartholomew anywhere near this contract if you knew that he had been convicted twice for SP - - -

Mr Berry: Where was Bartholomew near the contract?

MR DE DOMENICO: Mr Berry, you suggested it. You suggested that Mr Bartholomew was in town once during July whilst the thing was being talked about.

Mr Berry: So he is not a signatory to the contract, then, is he?

MR DE DOMENICO: No, he is not a signatory to the contract.

Mr Berry: He is not a shareholder.

MR DE DOMENICO: I do not know.

Mrs Carnell: How do you know?

Mr Berry: And he is not a director.

MR DE DOMENICO: Mr Berry would not know whether Mr Bartholomew is a shareholder anyway. What Mr Berry should have known, if he was doing his job properly - - -

Mr Kaine: What was Mr Bartholomew's interest?

MR DE DOMENICO: We do not know that. Perhaps he is a director of Oak Ltd. I do not know. All I know is what Mr Berry told us, and told the Assembly. Mr Berry told the Assembly that his information was that Mr Bartholomew was involved in only a minor way during one meeting in July. You said that in the house. He was involved in a minor way. I do not care how he was involved. The fact that he was involved and the fact that he had two prior convictions for SP bookmaking would ring alarm bells in my ears, let me tell you.

Mr Berry: So you were not misled on that score.

MR DE DOMENICO: You did mislead us, Mr Berry.

Mr Berry: No, you were not misled. You were told.

MR DE DOMENICO: You said, "Everything is hunky-dory; all the principals, everybody, were checked out". Yet the Opposition, with limited resources, was able to find out and to tell you that Bartholomew had two prior convictions. Madam Speaker, they are the things that I have brought up in this house to show Mr Berry that the evidence he has tried to present in order to counter what we have said is not worth the paper it is written on.

MR STEVENSON (10.32): Madam Speaker, I seek leave to speak for about 60 seconds.

Leave granted.

MR STEVENSON: This is relevant to the no-confidence motion. If this no-confidence motion is passed tonight I believe that the Minister should resign. If the Minister does not resign I think the responsibility falls to the Chief Minister to require that resignation. If the Chief Minister does not require that resignation the responsibility then falls to this Assembly, as we appointed the Chief Minister, to make sure that she does, or to move a motion of no confidence in the Chief Minister. This is a general principle that is vital in parliament. The Executive must be held responsible, and all MLAs would be bound to vote. It is a general principle and I have brought it up again and again. There have been occasions in this Assembly when Ministers have been directed by motions passed by the majority of members to do certain things and they have not done so. It is not surprising that the Assembly is ignored if we do not hold the Executive accountable.

MR BERRY (Minister for Health, Minister for Industrial Relations and Minister for Sport) (10.33): I seek leave to make a short statement.

Mr Connolly: Make a long statement.

Leave granted.

MR BERRY: It may well be a long one. I have already indicated to Mrs Carnell that if she raises any matters that are new I will seek leave to speak again. I will deal with some of the matters which have been raised by members. Ms Szuty suggested that I should give some further clarification of the sequence of events which occurred following VicTAB's notice of termination on 31 January 1994.

The chronology, I am advised, is as follows: On 31 January 1994 the Victorian TAB served a notice of cancellation on ACTTAB and the Northern Territory TAB, for obvious reasons, in regard to the superTAB pooling arrangements. On 1 February 1994 Mr Neck and Mr Luff met Mr Hooke in Melbourne to seek reasons for the termination and obtained an undertaking that VicTAB would write to ACTTAB detailing terms and conditions under which ACTTAB could remain in the superTAB. On 9 February 1994

Mr Neck wrote to Mr Windross of the New South Wales TAB formally requesting in-principle agreement of the New South Wales board to link ACTTAB, NTTAB and VITAB. On 10 February 1994 - I mentioned this earlier - I attended a special racing Ministers meeting and I raised the issue of VicTAB's termination notice with the Victorian Minister for Sport, Recreation and Racing, Mr Reynolds. Minister Reynolds stated that he was concerned about the poaching of Australian based punters by offering inducements. I gave Mr Reynolds a copy of a letter from VITAB stating that VITAB would not offer inducements. Mr Neck had a telephone conversation with Mr Tony Hodgson, acting chairman of VicTAB, requesting terms and conditions for maintaining the link. The duck might have looked pretty quiet on top of the water but the legs were going pretty well underneath. There was a lot of work going on in relation to this matter.

On 14 February 1994 Mr Hooke rang Mr Neck and advised that the VicTAB board had decided not to offer terms and conditions as previously discussed. He reconfirmed the termination in writing. On 20 February 1994 Mr Neck spoke personally to Mr Hodgson at the Flemington racecourse. Mr Hodgson intimated to Mr Neck that there was still room for negotiations regarding the superTAB pool link. On 23 February 1994 Mr Neck met with the South Australian TAB representatives to discuss possible pooling amalgamation. On 25 February 1994 ACTTAB wrote to VicTAB seeking reasons for the cancellation and again asking what terms and conditions, if any, could be negotiated in relation to the continuation of ACTTAB in the superTAB.

On 10 March 1994 - I mentioned this earlier - given concern about the lack of response from Victoria, I wrote to the Victorian Minister for Sport seeking reasons for the termination of the superTAB arrangement. I still have not received a response in relation to that. On the same day the New South Wales TAB advised the chief executive of ACTTAB in writing that it was prepared to negotiate with ACTTAB regarding amalgamation but would not consider VITAB. It made it clear that this was subject to endorsement by the New South Wales TAB board at its next meeting that was to be held on 29 March. I announced Victoria's cancellation of ACTTAB from the superTAB arrangement in a media release on 15 March. I released it; it was not pulled out of me. It was released by me.

Mr Humphries: Why did it take so long?

MR BERRY: Because I did not release it on the 4th, the 2nd or the 3rd, or in February or at some other time, people are suggesting that I have misled this Assembly. That is nonsense. A sensitive piece of commercial negotiation had to go on.

Mr Humphries: Rubbish!

MR BERRY: You would say "rubbish" because you are in opposition, but the Government has the responsibility of handling these matters. On 29 March 1994 the New South Wales TAB board agreed to recommend to the New South Wales Minister that a link be established with ACTTAB but on the condition that ACTTAB not receive any overseas betting. At this point we have not heard from the New South Wales Minister, as I understand it.

The important issue is that officers of ACTTAB - and I think this is a very important issue - had a clear understanding from VicTAB that there was still an opportunity to negotiate the terms and conditions under which ACTTAB might retain its linkage with the Victorian superpool. We still have time to run with the link, and I think it is fair to say that the possibility is not entirely extinguished. I think the possibility is not entirely extinguished, not until it is over. That is my view about these matters. As I said, I took up the issue personally with the Victorian Minister and again, despite his concerns about the VITAB agreement, he did not rule out the possibility of further discussions at the time.

I believed that it was also important that the legal issues were fully explored and that options for an alternative link with another State TAB were not prejudiced by an early announcement of Victoria's decision to sever the link. You have to bear in mind that if you are in a vulnerable position you have to negotiate with people. You are not going to put yourself in a vulnerable position in terms of those negotiations by announcing that you are starving and you will take anything.

Mr Humphries: But they knew that, did they not? They knew it already.

MR BERRY: This is prior to the event. You have to be careful about these things, in my view. It was something that I was concerned about. I have to say that I know that if it had been released for the fun of it here in the ACT - noting the absence of loyalty to the ACTTAB - there would have been a lot more mud-slinging about the issue and more instability created. From my point of view, I think I have acted responsibly in relation to that matter, and there is no way that it can be said that I misled the Assembly in relation to it.

Mr Humphries: You did not tell us about it. That is misleading us. You kept it from us. You covered up.

MADAM SPEAKER: Order!

MR BERRY: This is a nonsense situation. If there is something that we know and we think that you do not know, you are able to form the conclusion that we have misled you by not telling you. That is a nonsense. It is a nonsense for you to say that because we knew and you did not you are misled. That is a nonsense and that is the simplistic approach that you have taken on the matter. Mrs Carnell raises the issue of questions. She did not ask the question about VicTAB in March.

Mr Humphries: We did not know in March. That is why.

MR BERRY: I cannot help that.

Mrs Carnell: I asked in December.

MR BERRY: I will go back to the issues. I just went through the chronology of it. I will not go through it again, because it is well and truly on the record and there is no need for it. The fact of the matter is that it cannot be said that anybody was misled because we did not announce something that we knew and you did not. When it comes to the matter of consultation with other parties, maybe I should have anticipated that there might have been some interest later on amongst other members, but I do not know how I could do that because there was not an expression of interest in the Assembly about the issue by members other than the Liberals.

Mr Cornwell: I see. That makes it all clear.

MR BERRY: I think that is fair.

MADAM SPEAKER: Order! The Minister has a right to be heard.

MR BERRY: In the very brief encounters and the raised eyebrows of those across the floor, indicating, "What are these people on about?", I did not detect any interest amongst the Independents, and if I was in error for not raising it I accept that. I cannot do anything else. From my point of view, nobody set out to mislead anybody in relation to this matter. All of the work behind the scenes, I think, has been done. It is a matter that will be looked at in the course of the inquiry. That will be done in a non-partisan way and a report on the inquiry will be something that people can look at very closely and make their own decisions about. Again I say that I think I have handled the matter responsibly. We made sure that we looked at other opportunities for the pool, or a pool, in the course of the lead-up to that announcement, and again I say that it was my announcement. It was not as if you asked the question in the Assembly in that period and I denied it; it was my announcement. It was not pulled out of me; it was not dragged out of me.

Some other issues have been raised which people might like me to touch on as well. I should refer to the Oak Ltd matter. There is no question, I do not think, about me misleading you over the Oak Ltd matter.

Mr Humphries: You were. You did.

MR BERRY: Hang on a minute. I think I said in the Assembly, and I think you agreed with me a little while ago that I said, that I would look at the matter and report back in due course.

Mrs Carnell: But you knew then.

Mr Humphries: Kolomanski, McMahon, Dowd. They are the three that you said were directors.

MADAM SPEAKER: Order! Members of the Opposition will have further opportunities to speak. Please allow the Minister to finish.

MR BERRY: I am perfectly happy to table this. It is a letter from Macphillamy Cummins and Gibson. It is to Mr G. Fraser, acting secretary of the Department of the Environment, Land and Planning, and it says:

We refer to the above -

it was in relation to Oak Ltd -

and confirm that we retained Price Waterhouse to obtain a company search of the above company.

We are further advised that Oak Limited is a corporate services nominee company for Pacific International Trust Company Limited. As such we understand that Oak Limited simply acts as a local company director so that companies can be incorporated in Vanuatu.

Please let us know if you require any further information ...

I will table that.

Mr De Domenico: What is the date of that letter?

MR BERRY: I will table it and you can have a look. It is today.

Mr De Domenico: Today. Ha, ha!

Mr Cornwell: I thought so.

MR BERRY: I do not know what you are laughing about. I said that I would get the information for you and I have. It might be a great big chuckle, but you have it. I have also dealt in detail with those members of the company. I note that the Liberals, particularly Mr De Domenico, have made great play of the fact that Mr Bartholomew was a principal. I do not know what his interpretation of a principal is, but my advice is that he is not a director and not a shareholder.

Mr De Domenico: What is he?

MR BERRY: He is not a director and not a shareholder. I do not know what your interpretation of a principal is.

Mr De Domenico: Do you know what he is, though? He negotiated the deal.

MR BERRY: Do not be silly. That is just absolutely ridiculous. In relation to the bona fides, I think I went through those issues ad nauseam in my speech and I do not think I need to go to them again. There is nothing more that I can add to it. I think it was mentioned that Mr McMahon is not recorded in the criminal indices of the AFP; that is, they have no record of a criminal conviction against Mr McMahon. I understand that the AFP records cover the whole of Australia, including Victoria. The Liberals seem to be operating under the perception that if somebody has been charged with something they are automatically found guilty. I am afraid that there would be some guilty people out

there as a consequence of them being charged, and that would be quite unfair. In fact, it would be unlikely that we would be able to get any information on people who have been charged due to the provisions of the Privacy Act. There are serious privacy issues there. To say that you were misled because you found out that somebody had been charged, I think, is a very long bow.

Somebody wanted to talk about competition and said, basically, that they feel that the level of competition was not as I said it was. That is a matter of perception. I dealt with that. I do not think I have misled anybody on it and I have made abundantly clear what the position really is. After the *Canberra Times* wrote one article they ignored this matter. They subsequently found, after they were reminded by my office, that it was amongst the freedom of information information that they had received. They wrote about the advice that I had from the chief executive of ACTTAB, Mr Neck. He advised me by letter on 27 July 1993 that there was strong competition for the VITAB contract. That suggests to me that there were a few people interested in it. Bob Hawke said - - -

Mrs Carnell: You also said that he was a shareholder.

MR BERRY: Bob Hawke said on 8 November, at the launch of VITAB, that ACTTAB was selected by VITAB over a number of other Australian TABs. I can only take these people at their word, unless I go out and ferret out each individual matter. There is also a statutory declaration by the chief executive of ACTTAB which confirms that the Queensland TAB was a competitor for the VITAB offshore betting arrangement.

There is another statutory declaration that has been put down from Mr Meyer. So I think I had a reasonable basis for saying that ACTTAB was in competition for the VITAB agreement and that I have not misled the Assembly. I think you all agree that there was competition.

Mr De Domenico: No, we do not agree.

Mr Cornwell: No, we do not agree.

MR BERRY: Just because we disagree, it does not mean that I misled this Assembly. That is the point. You can make all the accusations that you like. In relation to inducements, there has been no misleading of the Assembly. The issue is quite clear. VITAB provided me with a letter which pointed out that they had no intention of inducing Australian residents to bet with VITAB. In fact people are required, as I said in my speech, to put in a declaration. People seem to be ignoring what I said earlier.

Mrs Carnell: Only account customers.

MR BERRY: I gave you a copy of the speech. It would not have been hard to pick it up - page 16. In addition, VITAB require new clients to sign a declaration warranting that "all bets are placed by me outside Australia". On this issue of inducements, I think you will find that the letter tying VITAB and ACTTAB is probably stronger than that which exists between the States, but that is not an issue that is up for argument here. What I am saying to you is that I do not think I have ever misled you on the inducements issue either. I do not know what you are on about.

I turn now to the matter of the approval which was given to the ACTTAB board pursuant to the relevant legislation. I think Mrs Carnell has tried on a beauty here. You only have to look at the legislation and it dawns on you fairly quickly. I have to say that I do not think she read the legislation before she did that.

Mrs Carnell: I read it exactly, word for word.

MR BERRY: If you had read it you would have been very cautious about saying what you did. I think the key to the approval versus the direction argument is that the ACTTAB board asked for approval and I gave it pursuant to the Act, as is set out in the letter, of which you have a copy. I think there are some people missing the point of the legal argument. The power to give directions is in a different section which relates to situations where I want them to do something and they do not. That is why a direction is required to be disclosed under the Act. It is safeguarding the TAB from arbitrary ministerial interference. If they ask me for approval it is a different matter, and I think the Act makes that pretty clear. I think that is just a nonsense. Madam Speaker, I will not go over those issues any more.

I think there has been enough said about who are the directors of VITAB. I think I have explained the Oak matter, although I did not need to because I do not think that was a question which was up for debate in terms of anybody claiming that they have been misled. I merely explained the Oak matter because I think I said in the past that I would. Now I have. I think we agree on that, do we not?

Mr De Domenico: No, we do not.

MR BERRY: I thought we had earlier. If we disagree we will have to agree to disagree. I think you agreed that I had said in the Assembly that I would look at the matter and report back.

Mr De Domenico: I do not know.

MR BERRY: You do not know now?

Mr De Domenico: No.

MR BERRY: Okay. I have reported back.

Mr De Domenico: Have you? Yes, kicking and screaming.

MR BERRY: I do not know about that. I have also made it clear who the directors on the board were as at 10 October. I do not think that is in question any further. I think, overwhelmingly, that I have made clear the claim about which the Liberals became most concerned. I have to say after going through some of these Hansards that I agree with other members that it is a little difficult sometimes to work out the direction of this in view of all the interjections from Mrs Carnell and Mr De Domenico. The question which gave rise to a response in relation to the deal was a question from Mr Westende about

amendments to the VITAB contract. I think I said during the course of that answer that the amendments would relate to something which was commercial-in-confidence and that I was not going to hand those over. Amidst a barrage of interjections, I said to the Liberals:

You are the people who are raising the suspicion and trying to create some mystery about the whole arrangement. What has happened is that the ACT Labor Government has struck a good deal, a good deal which returns - - -

This was on 2 March this year. I continued:

I have told you the details of it.

In the next paragraph I said:

I am telling you that what happened in relation to this was that the ACT Government spotted a good deal ... we went after it.

I am talking about back in October of the previous year. I suspect that there were interjections going on because this is rather broken up. I said:

What we also did, and what I personally was involved in, was to make sure that the deal was safe with respect to the Territory.

The Chief Minister has made it clear that these things have to be seen in context, and I think that is fair. I was the one - nobody denies this, I do not think - who sent the matter off to the Law Office and the Treasury to have it checked out. If you look at what was said there in relation to what I had done previously, it is very clear, and I need not say any more about that matter.

Madam Speaker, Mr De Domenico did raise the matter of a private company, or a public company, and I have to admit to sending him to the wrong place. The response was in relation to a question raised earlier about the VITAB directors. I had said that they were Mr Kolomanski, Mr McMahon and Mr Dowd, as my evidence presented today demonstrated, and I said that you could research that yourself if you wanted to confirm it. The contract was signed, and I described whom it was signed by. Mr De Domenico interjected:

So Mr Hawke is not a director?

I said:

You asked who signed the thing, and I am telling you who signed it.

Mr De Domenico interjected again:

Yes, but who are the directors again?

I said:

The directors of VITAB are Dan Kolomanski, Con McMahon and Michael Dowd. It is a public company, and Tony De Domenico can do a search through the ASC company records, if he wants to confirm that.

I misdirected him, because - - -

Mr Humphries: You misled him. You misled the house.

MADAM SPEAKER: Order!

MR BERRY: I misdirected him. I think it was made clearer in an answer which is recorded on page 4462 of *Hansard* on 9 December. Mr De Domenico asked a question in which he said:

Is it not true that VITAB is a private company registered in Vanuatu? Is it not also true that Vanuatu is, as the *Bulletin* said this week, a tax haven? Noting that in the Assembly this week you also confirmed that you had sought the advice of Treasury and the Law Office, has either the Treasury or the Law Office advised you of the unintended opportunity VITAB must open up for tax avoidance and money laundering?

It was a quite long question. I opened up by saying this, and I think this makes it very clear:

The operation of VITAB in Vanuatu is a matter for the Vanuatu Government, not the ACT Government.

I suggested that you would expect that because it would be in relation to the laws of the land which exist in Vanuatu.

Mr De Domenico: Oh, come on!

MR BERRY: That is where the company is based. Do you think that a Vanuatu company working in accordance with Vanuatu laws ought to be working to Australian laws? That is a nonsense. I think I made that issue clear; but if you feel dreadfully misled by that, I apologise.

Madam Speaker, I think we have gone over just about all of the issues that we can go over on this matter. There has been significant evidence placed here which I think makes it very clear that the Assembly cannot claim that I have deliberately or recklessly misled it. I think it would be a travesty if this motion were carried, because I think, from the outset, as I said earlier in the debate, that this started with mud-throwing. In fact, it started with much mud-slinging. Mr De Domenico was the starter, and Mrs Carnell could not wait to get involved.

Mr De Domenico: Wrong again. Mrs Carnell asked the first question.

MR BERRY: I am not sure that she was the first one to make a public statement. Let us go back to ACTTAB. We know how sincere you are about ACTTAB. I have made it clear that there are connections that go back that far. It is a political game; I accept that. I think all of the information is on the table for people to make their decisions on the matter, and I think that in all fairness the motion should not succeed.

MS FOLLETT (Chief Minister and Treasurer) (11.02): I seek leave to speak briefly on the matter a second time.

Leave granted.

MS FOLLETT: I wish to make it clear, Madam Speaker, that Mr Berry, as a Minister, has my total confidence and also that he has, I think, performed extremely well in some of the most difficult portfolio areas for this Government. Madam Speaker, in listening to the debate that we have had over many hours now, the thing that struck me the most was that we had traversed just about every issue that will be traversed in the course of the inquiry by Professor Pearce. Madam Speaker, it seems to me that in moving this motion the Liberals have attempted, as I suspected they would, to pre-empt the inquiry in many respects.

I have said also that the Assembly, of course, has the power to determine whether it has been misled, and that is a power which is open to this Assembly on any occasion and in relation to any member. Madam Speaker, I think it is strange, therefore, that there has been such confusion of the issue of misleading the Assembly with the issue of the inquiry itself, and Ms Szuty has pointed out that there are those two processes at work. I think it is quite disappointing that so many members have apparently confused the two processes. It seems to me that the inquiry which has been appointed has the power to thoroughly examine every issue which has been raised this evening, bar the issue of whether the Minister has misled the Assembly. Madam Speaker, I said earlier, and I will repeat it, that I do not believe that it is appropriate for the Assembly to proceed to make a judgment on all of the facts when, quite clearly, there is an inquiry under way to better establish what those facts are.

We have had conflicting comments this evening from the Liberals and from Mr Berry on any number of matters. I will not traverse them again, because members have been over and over them. But on the one matter that I believe is central and that I addressed in my opening remarks I think we have made significant progress tonight, and that is the issue of the notice of severance of the ACTTAB and VicTAB link, the superpool link. I believe that the Minister has added substantially to the information on that issue. He has, for instance, pointed out the commercially sensitive nature of the correspondence on that matter. He has pointed out that those people whose job it is to know about these matters were genuinely of the opinion that there was still hope for that link to be resurrected. Madam Speaker, I believe that in honouring the confidentiality and the sensitivity of that matter the Minister cannot be seen to have misled the Assembly. He never gave you an inaccurate answer on it. You did not ask a question. How he can be said to have misled by omission defeats me utterly, but that is what is being said by the Liberals opposite.

Madam Speaker, Ms Szuty said that she was not satisfied that the Minister did everything that he could to inform the Assembly about that break with VicTAB, and indeed that is the case. He did not inform them until an appropriate point, a point which he judged to be an appropriate point; so there is no question of his being asked a question and giving a false answer. There is no question of his being asked that question and being deliberately evasive; nor was he in any way reckless with that information. Madam Speaker, I consider that the motion of no confidence should fail, because that is the central point and, in my view, it has been explained.

Madam Speaker, I also consider that there has been a very wide debate on this matter. It is quite clear that there are many issues on which there is still confusion. I say to members two things. First, I have appointed an inquiry which is independent, which is high powered and which is available to all of you to put your views to. The second thing is that it is that inquiry which will clarify the confusion in a way that is just not able to be achieved in an Assembly like this where, quite clearly, people are in combative mode and people are arguing from a point of view rather than in a quest for the absolute facts. Madam Speaker, in view of the nature of this debate, in view of the fact that the inquiry is still under way and in view of the fact that the Minister has not misled the Assembly, I believe that in relation to that confusion which still is around members must give the Minister the benefit of the doubt. Members cannot act as the judge and jury in this matter. Even if they were a jury, they would be instructed to give the Minister the benefit of the doubt.

Mr De Domenico: By whom? By you?

MS FOLLETT: By a judge. Madam Speaker, I consider that it is very important that the Assembly retain the integrity of such a significant and important motion; that members do not act hastily and that they consider very carefully whether the motion that has been put forward this evening has been proved beyond any doubt - and I do not believe that it has been.

So, Madam Speaker, I urge members to vote against this motion and to await the outcome of the inquiry. I believe that it will clarify a vast number of the issues that have been put before us but not the issue of whether the Minister has misled the Assembly, because clearly he has not.

MRS CARNELL (Leader of the Opposition) (11.09), in reply: Madam Speaker, Mr Berry raised several issues this afternoon in a desperate defence of the way he deliberately and recklessly misled this Assembly. I want to deal with his earlier comments about the VITAB agreement point by point to show that, if anything, Mr Berry has just dug a bigger hole for himself today. He clearly misled the Assembly, or concealed vital and relevant information from it, on a number of key issues. I will address them in the order in which the Minister did. On the question of just who were the directors of VITAB, Mr Berry said this afternoon:

The facts are that at the time the agreement was signed VITAB had advised that its directors were Dan Kolomanski, Con McMahon and Michael Dowd.

He has used the phrase "the facts" quite freely, so let us examine the facts. Regardless of what VITAB tells ACTTAB or the Minister, official company documents lodged with the Vanuatu authorities show categorically that the directors were and are Kolomanski, McMahon and Oak Ltd. As I said, Madam Speaker, they still are. Earlier I tabled the official company documents, not some faxed letter that happened to come in today. In fact, we understand, Mr Berry, that a major accountancy firm in Port Vila which was actually asked to check the VITAB company structure last week went down to the company office earlier this week. On checking the company's records, guess what they showed? They showed that the directors were Kolomanski, McMahon and Oak Ltd.

This shows that Mr Berry was willing to take the advice of VITAB alone but ignore the results of the Price Waterhouse search that he himself requested - a search that he said today in his speech he became aware of in February this year. It shows that he knew that Oak Ltd was a director when he answered questions in the first week of March. His own document, his own speech today, says that he knew in February that Oak was a director; yet in March he said, "I am just going to go away and check on that and I will get back to you", even though today he said that he knew in February. I do not know what we can believe. He confirmed in this Assembly time and time again, after repeated questioning, that the directors were Kolomanski, McMahon and Dowd. There was nothing about Oak Ltd. It certainly shows that he was willing to mislead this Assembly as to who the directors were at the time of signing or even who the directors are today.

It is interesting that notes of the alleged meeting of VITAB's directors held on 10 October in Victoria were faxed to Mr Berry only today. They are not on official letterhead, and any changes have not been registered more than six months after they allegedly occurred. What this dubious record shows is that what this meeting of two people did was to appoint Mr Dowd. Let us just have a look at the document. It says:

It was resolved that Michael John Dowd is hereby appointed a Director of Vitab Limited.

Mr Berry: And what else did it say? It also said, "And we will do a deal with ACTTAB".

MRS CARNELL: We are talking about only the directors at this stage.

Mr Berry: We do not want to talk about the company deciding to do the deal with ACTTAB.

MRS CARNELL: No. We do. We are talking about directors. It is really important to run through this systematically. The document says:

It was resolved that Michael John Dowd is hereby appointed a Director of Vitab Limited.

This dubious record showed that what this meeting actually did was to appoint Mr Dowd as a director, but it did not rescind Oak Ltd's position as a director of the company. So Oak is still a director of VITAB, and the Minister now has misled the Assembly three times - in December, in March and again today - even though he was in full possession of the facts and he admitted that he was in full possession of the facts.

If the documentation that Mr Berry tabled today is correct, the directors of VITAB are Dan Kolomanski, Con McMahon, Michael Dowd and Oak Ltd. If Price Waterhouse and the Vanuatu Ministry of Finance are right, the directors are Dan Kolomanski, Con McMahon and Oak Ltd. Madam Speaker, in the Minister's desperate attempt to cover up his own misleading statements, he has simply made the situation worse. Let us be fair - - -

Ms Follett: Why do you not let the inquiry deal with it?

MRS CARNELL: I do not think we need an inquiry on this issue. What we have is categorical evidence that the one set of directors that is not right under any set of information we have is Mr Berry's set of directors. That is the only one that this document does not say is right, that the Vanuatu Ministry of Finance says is wrong, that Price Waterhouse says is wrong, that the documentation that we tabled today said is wrong, that the documentation got by the *Sydney Morning Herald* said is wrong. The only set of directors that is literally impossible under the information that the Assembly has in front of it is Mr Berry's set of directors, which is Kolomanski, McMahon and Dowd. It is simply not possible.

Mr Berry: As at 10 October. That is what the minutes of the meeting described.

MRS CARNELL: On 10 October what happened was that Michael John Dowd - assuming this letter is correct - was added as a director. The Minister knew that Price Waterhouse had already done a search and that the search had shown Kolomanski, McMahon and Oak - the same information I tabled today.

Mr Berry: What was the second item of business? It was that they do a deal with ACTTAB.

MRS CARNELL: What has that to do with it? Anyway, that does not matter. The fact is that Price Waterhouse did a search in September - one that the Minister had asked for. They showed, as the documents that I tabled today did, as the ones that I tabled in the last sittings did - and so the story goes on - that the directors were Kolomanski, McMahon and Oak Ltd. If this document that you tabled today is right, you have to add Dowd to that list. That is not what you said in the Assembly in December, and it is not what you said in the Assembly in March, and it is not even what you have told the Assembly today.

On the second issue, that of VITAB's bona fides, the Minister stated today that he had requested a full check of the company, its principals and its shareholders. Let us examine his remark today in detail. I think it is actually quite useful for those who are listening to have a look at page 7 of the Minister's speech. On page 7, about halfway down Mr Berry said:

It was not until February 1994 that I learnt from ACTTAB that they had commissioned Price Waterhouse to undertake the required company check in September 1993.

I also learnt at this time that they had not yet obtained the personal checks which I had requested in relation to its directors and shareholders.

That was quite categorical. The Minister also tabled a criminal indices check conducted by the AFP on Messrs Kolomanski, McMahon and Dowd which was received on 17 March. Madam Speaker, I remind the Minister of his remarks in the Assembly on 1 March - after February but before 17 March. On that day he said:

The bona fides have been checked by Price Waterhouse, an internationally registered company.

That is recorded on page 300 of *Hansard*. On 2 March he said:

The Price Waterhouse matter was arranged in terms of looking at the bona fides of the people - - -

That is on page 395. On the same day he also said:

Price Waterhouse, as I said yesterday, are an internationally recognised company and they were to look at the bona fides of the people involved in the company. My advice is that they did.

Madam Speaker, today Mr Berry admitted - on page 7 of his speech - that when he made these comments he knew that any personal checks, that is, establishing the bona fides of the people involved, had not yet been carried out by Price Waterhouse or anybody else. That is halfway down page 7 of his speech today. He told this Assembly in early March that he was satisfied that the people involved in VITAB had been checked out, yet he knew that they had not been. He admitted today that he knew that they had not been. Yet this afternoon he misled us again, because the results of those checks were known only on 17 March, more than two weeks after he claimed that the people involved had been vetted. Put simply, Minister, in February you asked for the checks to be done. That is your own statement. In the first week of March you said that they had been done, when your statement says that you had not got the results. The checks had not been done, and you misled the Assembly again today, to add to the previous times.

I note that Mr Berry made great play about the AFP check on VITAB's directors. Did he in fact bother to contact Victorian authorities? That is where he would have obtained information about the gaming charges laid against one of the directors in 1988. Knowing as he did that the addresses given by Dan Kolomanski and Con McMahon back in the middle of last year were Kew and Essendon in Victoria, surely a bona fides check should have taken place in that State at least. We have not misled the Assembly this

afternoon, as Mr Berry claimed before. We were simply more thorough in our inquiries than Mr Berry was. The Minister has yet to answer how he reconciles a so-called criminal indices check by the AFP against information that one of the people who brokered this gaming deal has been convicted of SP bookmaking related offences on two occasions.

Ms Follett: Who was that?

MRS CARNELL: Peter Bartholomew. How does he reconcile this check against the information that one of the principals was charged with two gaming related offences in Australia? I come back to one of the directors of VITAB - that is, Oak Ltd - one that Price Waterhouse alerted the Minister to, one that he knows very well about. In fact, he knew in September. Can anybody conduct a criminal indices check of a company? If it were Mr Oak, maybe; but Oak is a company, not a person. The AFP cannot conduct a check of a director who happens to be both a company and one that is exclusively registered in Vanuatu.

Does the Minister in fact know who the directors and shareholders of Oak really are, not just who PITCO think they might be? Does he know whether a trust has been set up under the Oak Ltd structure, the unitholders of which possibly are unknown? The fact is that Mr Berry does not even know whether someone like Alan Tripp is or is not associated with the Oak company structure. Vanuatu law makes it illegal to disclose details about the structure of exempt companies.

On his third point this afternoon Mr Berry also tried to suggest that the Queensland TAB had been a competitor with ACTTAB for VITAB's business. He used as the basis of this claim statutory declarations from two of his own officers. The declaration by Mr John Meyer says absolutely nothing. In fact, I think it is worth quoting his statement. He said:

... I asked Dick McIlwain then Chief Executive Officer of the Queensland TAB in what circumstances Queensland would have entered into an arrangement with VITAB Limited. He replied to me with words to the effect that provided the Queensland legislation was amended to permit off-shore betting arrangements, he would have no objections to entering into such an arrangement provided the price was right.

Nor would anybody, Mr Berry; nor should the ACT. If the price is right and the deal is right, we should go for it. That is not the issue. The statement does not indicate that the Queensland TAB was competing with ACTTAB for the VITAB contract; it indicates quite the opposite. It backs our statement that Queensland was not in the running because they had not changed their legislation.

The other evidence Mr Berry produced to support this claim that ACTTAB competed for the deal was a statutory declaration from ACTTAB chief, Mr Philip Neck. Mr Neck said that he asked one of the directors of VITAB, Mr Kolomanski, who told him that the Queensland TAB was in negotiations with VITAB. Neither Mr Neck, Mr Meyer nor Mr Berry bothered to follow up with the Queensland TAB. If they had, they would have found out that Queensland was prevented from tendering for the deal for legislative

reasons, not commercial reasons. I have tabled a letter from QTAB which clearly indicates this. Next time, Mr Berry, it would be a really good idea to get it from the horse's mouth. The Queensland TAB did not submit a proposal to VITAB. If VITAB tells you something, then it must be so, it seems - according to Mr Berry anyway, possibly according to Mr Neck as well. In fact, it is a bit like the WIN television jingle. According to Mr Berry, "I know everything I need to know 'cause Kolomanski told me so". It was also Dan Kolomanski who earlier today faxed Mr Berry the minutes of the alleged VITAB meeting of 10 October 1993 at which Michael Dowd was supposedly appointed as a director.

So ACTTAB's bid was the only one. The other States were not envious of this deal, as Mr Berry claimed in this Assembly on many occasions. Remember that the Minister told the house on 3 March:

... there is a lot of jealousy out there about this good deal that the ACT has done. The money is going to be in the bag in the ACT. Other places, other States, had the opportunity to look at this Vanuatu deal and the ACT got the jump on them.

Madam Speaker, the fact is that the ACT did not compete with any other TABs, because no other TAB put in a proposal. It is as simple as that.

That brings me to the fourth issue identified by Mr Berry, that of inducements. I was interested in one of the documents that Mr Berry tabled today, a letter from VITAB to ACTTAB dated 31 August 1993. For those who are interested, I think it is attached to Mr Neck's statutory declaration. Remember that this was written in August, before the contract was signed or finally negotiated. Point No. 2 states:

The principal objective of VITAB Limited is to establish a betting clientele principally from customers in countries other than Australia. However, please note that when transactions are processed in Vanuatu we may not be aware of the source of the bet and we will be accepting bets from Australia.

Oops! That flies in the face of the later letter, does it not? Point No. 5 - - -

Mr Berry: The later letter overtakes it.

MRS CARNELL: No. It says:

... we may not be aware of the source of the bet and we will be accepting - - -

Mr Berry: But they now require a statement.

MRS CARNELL: Not from the people who put bets via agents, Mr Berry. Point No. 5 states:

VITAB will not directly solicit betting investments from existing VicTAB or ACT/TAB customers. VITAB cannot guarantee that existing customers will not bet with VITAB, for reasons stated in Item 2.

The reasons stated in item 2 are that they cannot identify who is actually betting with them. Madam Speaker, these are categorical statements by VITAB itself, before it signed the deal with ACTTAB, that it would accept bets from existing Australian TAB punters. Yet the Minister has touted VITAB's letter of 23 November, after the contract with ACTTAB was signed, as an absolute watertight assurance that VITAB would not be accepting bets from Australian residents or poaching TAB customers.

Earlier today I tabled two legal opinions that indicate that this letter provided by VITAB on 23 November was not worth the paper it was written on. The statements quoted from VITAB's letter in August show definitely that VITAB was always intending to get amongst Australian punters. How can the Minister wave around VITAB's letter of 23 November as an ironclad guarantee that guards against inducements? Yet he chooses to ignore VITAB's earlier letter in August, when it said that it would be accepting bets from Australians.

If VITAB sent this letter to ACTTAB in August, before the contract was signed, would this not have triggered the thought in the Government's mind that some form of protection against the inducements was needed? Instead, it was not until November, after the contract had been signed and the Opposition had begun to ask questions, that Mr Berry sought information from VITAB. There can be no other conclusion drawn from this than that the Minister has misled the Assembly by repeatedly claiming that VITAB's November letter stops any chance of inducements. The earlier letter in August shows that this was not the case.

I want to mention in passing Mr Berry's remarks today about a letter from the Auditor-General to the Opposition relating to the VITAB agreement. I just want to make one point known to this Assembly. The Minister, in a vain attempt to accuse me and Mr De Domenico of withholding information, has got himself into hot water again. On 22 March the Minister was asked on ABC radio whether he had written to the Auditor-General himself and requested a copy of the letter to the Opposition. The Minister replied that he was considering his position. The fact is that when he made this statement Mr Berry had already written to the Auditor-General, and he had been told point-blank that the letter was audit-in-confidence and that the Auditor-General would not release it. It was a pretty cheap shot that backfired.

Mr Berry: Table the letter.

MRS CARNELL: We will table the letter if you give us the contract. Deal? Okay, no deal.

The fifth issue identified by Mr Berry has been dealt with earlier, I believe. That is the issue of the involvement of Peter Bartholomew. Mr Bartholomew, according to both Mr Berry and Mr Wood this evening, attended only one meeting between ACTTAB and VITAB in Canberra. That one meeting, though, was in fact the main meeting. The day after it finished, VITAB wrote to ACTTAB and stated that they were the preferred tenderer - that is, ACTTAB got the deal - which, as we already know, is inaccurate, because obviously ACTTAB was the only tenderer. It is hard to be a preferred tenderer if you are the only tenderer. So the one meeting that Mr Bartholomew attended was the most important of all the negotiations. As a person involved in the marketing of VITAB, according to Mr Neck's own comments, Mr Bartholomew's bona fides should have been scrutinised.

But perhaps the most serious example of misleading the Assembly that Mr Berry is guilty of was contained in his remarks this afternoon when he addressed what he termed was the sixth and final issue - the issue related to our expulsion from the superpool and his comments in the Assembly in February and March. I quote the Minister as to when VicTAB told ACTTAB that its decision to expel us from the superpool was made. He said:

VicTAB confirmed its intentions on 14 February 1994.

Therefore, on 14 February VicTAB confirmed its intentions that it had already given on 31 January that we were out; that the contract had been terminated, with the usual six months given after termination. That is clear evidence that more than a week before he was asked a series of questions in this Assembly Mr Berry knew that there was no way for ACTTAB to get back into the Victorian superpool. Even after he knew that the Victorian decision was final and non-negotiable, Mr Berry said on 1 March - - -

Mr Berry: I did not know that it was non-negotiable.

MRS CARNELL: He says himself that on 14 February VicTAB confirmed its intentions to terminate the agreement. They confirmed their intentions on 14 February, Mr Berry, and you know why. The reason was that by that stage a number of negotiations, a number of telephone calls and other things had been entered into between Mr Neck and the Victorian TAB. The Victorian TAB told us on the 14th that no, it was not on. They confirmed their intentions. Mr Berry said on 2 March:

We know a good deal when we see one. What we also did, and what I personally was involved in, was to make sure that the deal was safe with respect to the Territory.

He did not say safe with regard to a contract or to VITAB or to VicTAB but safe with regard to the Territory. I said earlier today, and I say it again, that Mr Berry knew full well that our expulsion from the superpool was entirely relevant to questions asked about VITAB in late February and early March. I noted Ms Szuty's questions on that.

Possibly I did not phrase my remarks well. I think it is quite clear that the fact that notice had been given to the ACT to get out of the superpool is totally relevant to whether it was safe for the Territory. Obviously, by this stage it was no longer safe for the Territory because of the termination of the contract, with the necessary six months' notice as spelt out in the contract.

Today Mr Berry himself has admitted that he concealed this information from the Assembly. Remember that 14 February was the date, by the Minister's own admission, that VicTAB's decision was final. I am sure that if you ask Mr Neck he will tell you that too. Mr Berry has given no credible defence as to why he kept this information out of the Assembly and the public arena until 15 March. The Minister also said earlier today:

The representatives of ACTTAB and VITAB clearly had an understanding on the basis of meetings and correspondence with VicTAB that VITAB could gain access to the Victorian pool.

I ask Mr Berry whether he can therefore show this Assembly any written authorisation from the Victorian TAB which gave VITAB access to the superpool through a link with ACTTAB. Surely this Minister, who after all made the final decision to link our TAB with a Vanuatu company, would not have proceeded with a multimillion dollar contract without written authorisation from the Victorian superpool. Minister, you seem to have agreed to your TAB signing an agreement without written approval from the Victorian TAB. Again, I think you have just taken rotten advice. Indeed, throughout this affair it seems that all along what Mr Berry and his officers did was to accept advice unquestioningly at almost every turn.

I emphasise again, Madam Speaker, that today's motion stands apart from the inquiry to be conducted by Professor Pearce. Today's motion is concerned about misleading of the Assembly by the Minister. We have shown throughout this debate that these examples of misleading occurred in some cases over a period of four or five months. They were systematic, deliberate and designed to create a false sense of security amongst members and, indeed, all Canberrans. Mr Berry wanted us to think that ACTTAB's link with VITAB was safe, when it was not, particularly after 31 January. He wanted us to think that ACTTAB beat most of the other TABs, when it did not. He wanted us to think that the bona fides of all the directors and shareholders of VITAB had been thoroughly vetted, when it had not. He wanted us to believe that VITAB had given him a letter guaranteeing against inducements, when it had not. He wanted us to believe that Mr Bartholomew played only a minor role in this deal, when it certainly appears that he did not.

Madam Speaker, I know that those members on the cross benches have thought long and hard about the arguments put forward today. I want to make one point in conclusion. If you mislead the Assembly deliberately and recklessly, it is a serious breach of your duty as a Minister. I ask you to think long and hard about the standards of accountability and accuracy this Assembly seeks to uphold in its infancy. I urge all members to support this motion.

Question put:

That the motion (**Mrs Carnell'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.

ADJOURNMENT

Motion (by **Ms Follett**) agreed to:

That the Assembly do now adjourn.

Assembly adjourned at 11.42 pm

ANSWERS TO QUESTIONS

ACT LEGISLATIVE ASSEMBLY

QUESTION ON NOTICE No. 1148

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question no. 1148
Tourism - "Holiday Planner" Booklet

MR HUMPHRIES - Asked the Chief Minister upon notice on 22 February 1994:

In relation to a contract described in Gazette No. 1, dated 12 January 1994, period contract reference 419-1, for a holiday planner, valued at $50,000, purchased from Vickers Caley of Neutral Bay, NSW

(1) What is a Holiday Planner.

(2) Why is it required by the Department and what will its function be.

(3) What is its cost.

(4) Has it been purchased.

(5) Were expressions of interest sought from ACT suppliers; if not, why not; if so, why was an ACT supplier not chosen.

(6) Is the Chief Minister satisfied that this contract for $50,000 represents necessary expenditure and a satisfactory use of resources; if so, why.

MS FOLLETT - The answer to the members question is as follows:

(1) The Holiday Planner is a booklet which is produced to promote Canberra as an exciting and interesting tourist destination and to encourage and assist potential tourists to spend their holiday in Canberra. It is distributed to all Travel Agents Australia wide through Templar Marketing and to information centres, coach companies, NRMA offices, RACV offices, schools, seniors clubs as well as many other groups and clubs. The Planner is targeted at anyone who may visit Canberra. It is also available on request from the Visitor Information Centre to tourists visiting Canberra.

(2) The Holiday Planner has existed for many years, and has been called a variety of names. It is one of the main marketing publications produced by the ACT Tourism Commission as a promotional device for use outside the ACT.

(3) The Holiday Planner is being produced following a tender process which sought publication of the book for three years. Tenders were received from both ACT and national publishing houses. Vickers Caley were selected to produce the Planner as they proposed the most cost-effective publication. Vickers Caley proposed a financial structure of a $50,000 establishment subsidy in the first year, a $25,000 subsidy in the second year, and nil subsidy from the third year onwards. All other tenders sought an ongoing subsidy, or stated that the publication could not be produced on a self-funding basis.

(4) Vickers Caley supply 200,000 copies of the Planner to the Commission at no cost.

(5) A tender process was undertaken, and expressions of interest were sought from local suppliers. Local suppliers were unable to compete in either fmancial or conceptual terms with the proposal from Vickers Caley and/or did not meet the brief which was distributed by the Public Affairs Unit.

(6) The first year payment of $50,000 represents a significant saving for the Commission. The Commission has on a previous occasion produced the Planner (then known as the Travellers Guide) internally at a cost of some $200,000. In addition, substantial pressure was placed on the staff of the Commission in undertaking the sale of advertising, a task for which the Commission is not resourced or experienced. With the funding drop in the second year, the savings margin increases dramatically, and from the third year, the publication becomes self-funding.

664

MINISTER FOR INDUSTRIAL RELATIONS FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No. 1153

Labour Costs

MRS CARNELL - Asked the Minister for Industrial Relations - In relation to labour costs for 1991-92

(1) What are the comparative ACT, NSW and Australian average figures for the private sector in respect of earnings, superannuation, payroll tax, workers compensation and fringe benefits tax.

(2) To what degree are the figures for the ACT affected by the composition of the ACT workforce relative to that in NSW and Australia, in terms of industry classification.

(3) What are the comparative proportions of the private sector workforce in the ACT, NSW and Australia and what are the rankings within Australia for each of these jurisdiction for the various labour cost components by industry classification, of (a) earnings; (b) superannuation; (c) payroll tax, (d) workers compensation and (e) fringe benefits tax.

(4) Is it correct that revenue from payroll tax in the ACT grew between 1990-91 to 1991-92 by some 34.2%, the largest increase in Australia during that period.

(5) Is it correct that the rate of increase in public sector (ACT Government) workers compensation costs per employee rose most in relative terms between 1990-91 to 1991-92 of all Australian Governments, and that the cost per employee rose from fourth in ranking to second of all Australian Governments.

(6) What was the extent of ACT Government Service COMCARE premiums during 1992-93 relative to 1991-92, and what is the expected extent of increase during 1993-94 in relative and absolute terms.

(7) What are the comparative ACT, NSW and Australian average labour cost per employee figures for the private sector in respect of earnings, superannuation, payroll tax, workers compensation, fringe benefits tax and total labour costs for firms with 0-9 staff.

(8) What are the comparative ACT, NSW and Australian average labour cost per employee figures for the private sector in respect of earnings, superannuation, payroll tax, workers compensation, fringe benefits tax and total labour costs for firms with 10-19 staff

665

MR BERRY - The answers to the Members questions are as follows:

(1) Average cost per employee (Private sector only)

Table included.

Source: Labour Costs, Australia (ABS Cat No 6348.0)

(2) It is difficult to draw conclusions about the extent to which ACT data is affected by the composition of its workforce given that the ACT has little or no private sector Manufacturing, Mining, Electricity, Gas, Water, Transport, Storage and Communications industries. It should also be noted that ACT public sector employment as a proportion of all employment is approximately double that of NSW.

(3) Private sector workforce

Table included.

666

Table included.

667

12 April 1994

Table included.

668

Table included.

* The estimate has a relative standard error greater than 25 per cent and should not be regarded as reliable

1 Population refers to all persons employed in all industries excluding Agriculture, Forestry, Fishing and Hunting. Permanent defence force personnel and self employed persons are also excluded. Source: Labour Costs, Australia (ABS Cat No 6348.0)

669

(4) No, it is not correct that revenue from payroll tax increased by 34.2% between 1990-91 and 1991-92. Revenue from ACT payroll tax increased from $80 million in 1990-91 to $86.6 million in 199192 representing an 8.25 % increase between the two years.

(5) A comparison of the ACT Government service compensation costs with those of the public services of other States is not readily
available, as figures published by the Australian Bureau of Statistics for each State and Territory include all levels of Government operating in each jurisdiction, ie, Commonwealth, State and local government. They therefore do not show separately the costs of workers compensation for each State or Territory Government public service.

Clearly, the proportions of each level of government will vary significantly between the ACT and other States and territories. In addition, the schemes operating in each State have different levels of benefits and therefore different cost structures. Acknowledging these limitations, a comparison of 1990-91 and 1991-92 ACT Government costs with published ABS data on public sector costs in other States appears to confirm that the ACT had the highest increase and that its ranking rose to second.

(6) The total premiums paid or expected to be paid to Comcare by all ACT Government agencies and statutory authorities for the years 1991-92 to 1993-94 are as follows:

Year	Premium paid ($m)	Increase over previous year (%)
1991-92	16.6	-
1992-93	17.2	3.4
1993-94*	20.0	16.2

* Excludes Calvary Hospital for comparison purposes

The figure for 1993-94 is based on estimated salaries and wages and is subject to adjustment once the final salary figures are known. The increase over 1992-93 is a result of factors such as higher average claim costs and adjustments for greater than expected claims costs in 1992-93.

670

(7)

Average cost per employee

(Private sector firms with 0-9 staff only)

Table included.

* The estimate has a relative standard error greater than 25 per cent and should not be regarded as reliable
Source: Labour Costs, Australia (ABS Cat No 6348.0)

671

12 April 1994

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION No. 1155

Government Schools - Language Programs

MR MOORE - asked the Minister for Education and Training on notice on 22 February 1994:

Why are language programs being cut in public schools in spite of an Education Department push to ensure that a language other than English is to be taught to all students.

MR WOOD - the answer to Mr Moores question is:

Language programs in ACT government schools are not being cut. The provision of language programs in public schools is under continuing review and programs are being expanded. Greater recognition is being given to Languages Other Than English (LOTE) programs, with the number of students studying LOTE in government schools increasing from 17,421 in 1992 to 19,689 in 1993.

In some schools certain language programs have been replaced by other language programs, so for instance a German class may be replaced with a second Japanese class.

In other schools the total school population might be dropping as a result of demographic changes in the community. This affects the number of teachers in a school which in turn can affect the range of subject choice a school might be.able to offer Schools affected may have:

reduced the choice of languages offered if one of the languages were not as popular as others and if that language teacher were not essential to the teaching of another area of. the curriculum.

• not changed the program, but replaced the teacher covering the. program with another suitable teacher in the school.

reduced the time allocated to the program. This is possible in primary schools were timetabling is flexible.

Primary schools not previously offering a LOTE are introducing. LOTE programs and the opportunity to continue the study of a LOTE is being catered for with high schools and colleges offering complementary LOTS programs for students coming on from primary school.

*LOTE remains an important priority for the Department of Education and Training and its schools.

672

MINISTER FOR SPORT

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1158

Australia Day Sports Carnival.

Mr Westende - asked the Minister for Sport

(1) Why is the Australia Day Sports Carnival held for a period of one month in January, even though it is not linked to the Australia Day celebrations.

(2) Why does the Australia Day Sports Carnival use the Australia Day logo, even though it is not linked with the Australia Day celebrations.

(3) Does the Australia Day Sports Carnival come under the auspices of the National Australia Day Organisation; if not, (a) why is it a recipient, as an Australia Day event, of a grant from the Government and (b) what is the basis of the grant.

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

(1) The Australia Day Sports Carnival grew rapidly from its commencement in 1980 from a sporting event held over the Australia Day weekend holiday period to an event involving. some 44 events conducted by 36 sporting bodies over the whole of January. I understand that from its inception it was linked with the Australia Day Council: At the request of organising sports and with the endorsement of the Australia Day Council a separate Carnival Organising Committee was established and incorporated in September 1984. From its inception the Carnival has been an integral and fitting part of Canberras celebration of Australia Day, even though it is now a-separate event.

It provides considerable tourism and economic benefits to the ACT and sports have sought to hold events when it was best for the individual sport over the January period, which is traditionally quiet for the ACT tourism industry. This has become more of a consideration for a successful carnival since the ACT and the other States have moved official observance of Australia Day from a long weekend to 26 January. Sports are encouraged to hold events as close to the 26 January as possible.

(2) The Australia Day Sports Carnival uses the Australia Day logo as it was originally established as part of the Australia Day celebrations by the Canberra Australia Day Council. It is thus identified with the Australia Day celebrations in Canberra.

673

(3) The Canberra Australia Day Sports Carnival does not now come under the auspices of the National Australia Day organisation and receives .ACT Government grants funding from the Sports Development Program. The 1994 grant amounted to $78,500. The Carnival is a major event which emphasises participation over a wide range of sports and levels of competition. Accordingly the event provides economic benefits to the ACT from visitor expenditures of approximately $1.8 million from 10,000 interstate competitors and supporters. It has become a significant event on the Australian sporting calendar.

674

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1160

School Facilities - Gungahlin

MR CORNWELL - asked the Minister for Education and Training on notice on 22 February 1994:

In relation to the sharing of school facilities in Gungahlin -

(1) Has any expression of interest been received from the non-Catholic non-Government school sector.

(2) Has an approach been made to the sector seeking involvement in the project and if not, why not.

MR WOOD - the answer to Mr Cornwells question is:

(1) Initial expressions of interest in Gungahlin school sites have been received from the non-Catholic non-government school sector regarding the joint location of schools in Gungahlin and possible sharing of school facilities.

(2) A public meeting was held about the Nicholls shared facility proposal last year to which various church organisations were invited. These organisations were requested to advise either the Department of Education and Training or the ACT Planning Authority if they were interested in a shared facility arrangement in Gungahlin.

675

MINISTER FOR EDUCATION

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1161

Preschools and Primary Schools - Work Bans

MR CORNWELL - asked the Minister for Education and Training on notice on 22 February 1994:

What is the background to the current preschool/primary school dispute which has led to work bans being threatened.

MR WOOD - the answer to Mr Cornwells question is:

With the closure of the Regional School Support Centres a Working Party was formed to establish an effective model for administrative and professional preschool/primary school links. In March 1993 the Preschool/Primary Administrative and Professional Links Working Party completed their report to the Department.

There are unresolved issues relating to the roles and responsibilities of the primary schools and links with their feeder preschools. The Primary Principals Association (PPA) requested extra resourcing if there were to be formal links made between preschools and primary schools. The Department does not have the additional resources to allocate and suggested that the PPA negotiate with the AEU seeking an enterprise bargaining agreement.

The Department is providing support to the preschools through the Executive Directors { Schools} and two Executive Officer (Preschools) positions based in the Department.

676

ATTORNEY GENERAL

LEGISLATIVE ASSEMBLY QUESTION

Question No. 1163

Petrol Prices

Mr Cornwell - asked the Attorney General - In relation to the price of petrol in the ACT

I.) Given that the price of the benchmark (West Texas Crude) oil was US$22.80 per barrel in September 1993 and is now (February 1994) only US$14.27 per barrel, why has this one third reduction not been passed on to ACT motorists.

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

I.) The price of West Texas Crude was not US$22.80 in September 1993. Your question is thus wrongly premised and requires no answer. Given the open nature of this Government, I will, however, answer your question.

I am advised that the Prices Surveillance Authority has reduced the maximum wholesale price caps (before taxes) for the ACT by an amount that exceeds the movement demonstrated in the West Texas Intermediate ("WTI") crude price over the same period. WTI prices have not been at or above $US22.00 per barrel since October 1992 and were last reported at $US23.00 per barrel or above in November 1991.

Increases in both Federal and Territory taxes in the ACT since I September 1993, have totalled 2.69 cents per litre for leaded and 1.69 cents per litre for unleaded petrol.

I attach, for your information, a diagram provided by the Prices Surveillance Authority showing the change in WTI crude prices from 1 September 1993 and the change in the PSA maximum endorsed wholesale price for Shell in Canberra during the period 1 September 1993 to 25 February 1994. During this same period, retail prices have varied from a high of 76.9 cents per litre to lows of 66.9 cents per litre. During this same period, there has been an effective wholesale price decrease of 2 cents per litre. This shows the dramatic effect actions of the Labor Government have had on retail petrol prices.

677

t. 4:

(1) Change in West Texas Intermediate (VVTI) crude prices from 1 September 1993.

	WTI		WTI	
	Date	US BBL*	Exchange	$A BBL
1 Sept 1993	17.85	0.6675	26.74	
25 Feb 1994	1450	0.7185	20.18	
Change	-3.35	!-6.56		

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*Source: Platts Global Alert

(2) Change to PSA Maximum Endorsed Wholesale Price for Shell in Canberra Since 1 September 1993

Super Leaded Petrol - Shell (cp11 ;
j 1 Sept 1993 25 Feb 1994 Change
Base Maximum Before Excise 32.13 27.34 - 4.79
Excise Duty 2956 31.75 +2.18
ACT Franchise Fee 6.53 7.04 + 6.51
Maximum Endorsed Price 68.23 66.13 - x.10
0 A reduction of 4.79 cp1 in petrol price is, equivalent to around $A7.60 BBL.

678

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1164

Housing Trust - Community Consultation Project

MR CORNWELL: Asked the Minister for Housing and Community Services -In relation to the Community Consultation Project undertaken at the Bega, Currong and Allawah Flats for the ACT Housing Trust-

(1) When did this project begin.

(2) When was it completed

(3) Who conducted it.
(4) What was its cost, by component.
(5) Were tenant meetings held during this consultation, if so, how successful were they.

(6) What process did the consultant employ.

(7) Has the consultant provided a report; if so, is it available to interested persons including myself.

(8) What recommendations did the consultant make.

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

(1) Preliminary work by the Housing Trust commenced in August 1993, with the consultancy let in September 1993.

(2) January 1994.

(3) Angela Sands and Associates

(4) The budget for this consultancy was $25,180.00 Costs to date are:
Stage 1 Data Collection and Analysis $2,150.00
Stage 2 Survey, preliminary work design
and training, clerical $7,600.00
Extra meetings and survey work $5,180.00
Stage 3 Focus Groups, Analysis, Solutions
Commencement of Report preparation $7,070.00

679

Stage 4 Final Report 2 40.00
Total 24 840.00

(5) Yes. The meetings were most successful in that there was a reasonable level of representation at the meetings, which gave the opportunity for tenants to express their needs, views, difficulties and ideas about living in the flats.

(6) The process employed by the consultant included a letter box drop to tenants, discussion groups, a representative survey of the flats, formal and informal meetings.

(7) Yes. The report has been released.

(8) This information is available from the Report released on 10 March 1994.

680

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1165

Housing Trust - Community Consultation Project

MR CORNWELL: Asked the Minister for Housing and Community Services In relation to the Community Consultation Project undertaken at the Bega, Currong and Allawah Flats for the ACT Housing Trust

(1) How many recommendations made by the consultant have been implemented at 22 February and what are they.

(2) What other recommendations made by the consultant will be implemented.

(3) When will this occur.

(4) Will any of the consultants recommendations not be implemented; if so, why not.

(5) Have any other steps been taken since the project was completed to improve the lot of tenants of the inner city complexes.

Mr CONNOLLY: The answer to the Members question is as follows
(1) None. The report has recently been submitted. Implementation of the recommendations will be guided by a Steering Committee which will include residents of the flats.

(2) See response to (1) above.

(3) See response to (1) above.

(4) See response to (1) above.

(5) Yes. The Housing Trust is assisting with the formation of the tenant participation group. An on site Area Manager has been appointed.
Plans and cost estimates for physical improvements have been prepared.

681

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 1166

Housing Trust - Rent Levels

MR CORNWELL - asked the Minister for Housing and Community Services -

By what process are rent levels on ACT Housing Trust houses determined.

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

Rent levels for all Housing Trust properties, including houses, are set at market related levels determined by independent valuation every three years. Adjustments to rents are made annually based on Australian Bureau of Statistics figures on the average increase in market rents. Rents will vary according to inclusions such as carpets, carports and garages, a suburb loading, and deductions are made for some outer wall types, eg. monocrete.

682

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 1167

Housing Trust - Rent Levels

MR CORNWELL - asked the Minister for Housing and Community Services - in relation to the Bega Flats

(1) How has the level of rent been determined.

(2) In this process, have socio-economic factors been taken into account; if so, (a) which ones and (b) how have they affected the determination.

(3) To what extent has the location (ie inner city) affected the setting of the rent level.

(4) What is the unrebated rent on a two bedroom Bega Flat.

(5) How many tenants actually pay that full unrebated rent.

(6) What is the average rent paid by other tenants.

(7) What is the private market rent on a two bedroom unit in the inner city area and how does the condition of such a unit compare to a Bega Flat.

MR CONNOLLY- The answers to the Members questions are as follows:

(1) Rent levels are determined as per the formula applying to Housing Trust houses - Q on N 1166 refers.

(2) No.
(3) A suburb loading applies to this rent level.

(4) $291.00 per fortnight.

(5) This information is not readily available; tenancy records are not aggregated and reported by flat complex. Production of the data as it would require a search of all tenancy records to extract the necessary data. Resources are not available for this task.

(6) See (5) above.

(7) The private market rent for a two bedroom unit in Canberra is $310 per fortnight (December 1993 Market Facts - REI Australia). The condition and amenity of private inner city units varies widely. Foe example, a major difference in standard is internal laundry facilities which are generally found in private units while communal laundries are found in Bega Flats.

683

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 1171

Housing Trust - Client Services

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

(1) Is it a fact that the Minister has publicly foreshadowed a directive whereby senior officers of the ACT Housing Trust will spend time serving customers.

(2) If so, (a) how does the Minister intend the scheme to operate and (b) when will it become effective.

(3) Are ACT Housing Trust officers complying with this directive and what feedback has been obtained from them.

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

(1) (2) and (3) Yes, I have issued instructions to the ACT Housing Trust to progress the development of the concept in the context of a client services improvement program.

684

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1173

Housing Trust - Waiting List

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

(1) Is the Prime Television News (7 February 1994) claim that almost 50% of the 1993 ACT Housing Trust waiting list was made up of people aged under 25, substantiated by the Trust.

(2) If so, what criteria is employed to wait list or allocate accommodation to such people, eg, is the fact they have a parental home in the ACT taken into account; if not, why not.

(3) Do interstate applicants under 25 years have to wait 12 months before accommodation is provided; if not, why not.

(4) What proportion of the people in (1) are tertiary students.

(5) Are tertiary students entitled to rental rebate.

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

(1) As at 8 February 1994, 2794 new housing applications from single people under the age of 25 years were recorded on the Housing Trusts waiting list. This represented 44.39 % of the total number of persons registered for housing with the ACT Housing Trust.

(2) Persons under the age of 25 years are required to meet the housing eligibility criteria as set out in the Public Rental Housing Assistance Program. The existence of a parental home in the ACT is not part of the criteria.

(3) Persons from interstate may register for public housing as soon as they take up residence or employment in the ACT. They will then be offered accommodation when their name reaches the top of the waiting list. Priority assistance is not ordinarily available until they have lived or worked in the ACT for at least 6 months.

(4) This information is not available.

(5) Housing Trust tenants are entitled to apply for a rental rebate. The rental rebate is assessed on the applicants gross income.

685

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION N0.1174

Housing Trust - Animals in Flats

MR. CORNWELL - Asked the Minister for Housing and Community Services -In relation to the Ministers letter of 1 February 1994 concerning ACT Housing Trust policy and procedures on keeping of animals in flats -

(1) Apart from "sight and hearing impaired persons requiring guide dogs", what other circumstances would apply to permit tenants to keep an animal.

(2) How many complaints were received in 1993 about animals in Housing Trust flats.

(3) How many of these complaints led to (a) the animal being removed and (b) the tenant being evicted.

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

(1) Another circumstance under which permission to keep animals may be granted is where an the elderly or ill tenant requires companionship. As mentioned previously, applications from a tenant to keep an animal are each dealt with on their merits.
(2) This information is not readily available.
(3) (a) Animals have been removed but the number involved is not known.

(b) The keeping of animals has not been cited as a sole reason for the termination of a tenancy. However, it has been a contributing factor in certain cases.

686

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

ACT LEGISLATIVE ASSEMBLY

QUESTION NO. 1176

Kingston Foreshores

Mr Cornwell - asked the Minister for the Environment, Land and Planning -In relation to the Kingston Foreshore area-

(1) What area, by block number or other relevant description, is referred to by the ACT Government as the "Kingston Foreshore site".

(2) What improvements/infrastructure are currently on that area.

(3) What descriptions apply to this area (eg National Land, designated land etc) by section.

(4) What tasks does the Government deem necessary in order to prepare this area for "commercial sale" and at what approximate cost.

(5) What additional tasks does the Government see as desirable in order to prepare this area for "commercial sale" and at what approximate cost.

(6) In relation to the "derelict Expo site at Brisbanes South Bank" (a) what were the similarities and differences of that site and Kingston Foreshores before the Expo sites preparation for commercial sale; and (b) what are the similarities and differences between the necessary and desirable tasks needed to prepare the two sites for commercial sale.

Mr Wood - the answers to the Members questions are as follows:

(1) The area commonly referred to as the Kingston Foreshores consists of that land within Section 7, 8 & 30-32 Kingston bounded by Mundaring Drive/Newcastle Street, Blueberry Street, Sandalwood Street, the Causeway, Cunningham Street, Wentworth Avenue and the Boat Harbour. However, the Kingston Foreshore redevelopment area excludes the Boat Harbour and its surrounds. The site has an area of approximately 5.5 hectares. See plan at attachment "A".

(2) Commonwealth and Territory Government agencies occupy most of the area - the remainder being vacant. The majority of these land users have or are in the

process of relocating from the site. As of June 1992 the principal remaining users were:

Australian Government Publishing Service (ALPS) on Block 4 Section 8;

Department of Administrative Services administer Part Block 16 and Block 23 Section 8 used primarily for storage purposes;

ACTEW have a number of facilities including the Switching Station on Block 59 Section 7, Transformer Substation on Block 8 Section 8 and an underground 132kv power cable under Blocks 10-12, 22 and 25 Section 8. These facilities are vital for the provision of power to South Canberra. The original 1913 Power House on Block 14 Section 8 is required to be maintained because of its historical and architectural significance;

ACT Forensic Medicine Centre (Mortuary) is located on Block 60 Section 7;

Most of Block 16 Section 8 is taken up with the former ACTION Bus Depot and Transport Depot Workshops.

Estate Management, DUS is responsible for the management of the Territory Assets. The current occupants are as follows:

Burmah Fuels Australia Limited occupy the former ACT Government petrol outlet. Burmah Fuels entered into a licence agreement with the Government to introduce discounted petrol prices in the ACT.

The licence commenced on 22 November 1993 for a period of three years with an option to extend for a further two years.

Local Employment Development Incorporated (LEDI) known as Canberra Business Centre South occupy the two storey brick building at the Kingston Bus Depot. Canberra Business Centre South is for the development of new business enterprises and for community uses which have been approved in writing by the Territory.

The occupancy agreement commenced 1 August 1992 and will expire 31 July 1997, and thereafter on a month to month basis.

V J Transport occupy the old bus garage near the AGPS building. The site is used for parking facilities for trucks and associated minor maintenance.

3

The occupancy agreement commenced 25 November 1993 and expires on 24 May 1995 with an option to renew the agreement for a further period to 1 November 1996.

(3) Declared National Land administered by the Department of Administrative Services includes the AGPS site on Block 4 Section 8, railway land adjacent to the site and through the centre of Section 8 and Block 23 Section 8. This land is shown in Commonwealth of Australia Gazette S76, 2 March 1989 "Declared National Land" as contained in the National Capital Plan of December 1990. See plan and gazette notice at attachments "A and B".

Territory Land as identified under the Territory Plan is Residential on Block 21 Section 8 and Sections 30 - 32 and remaining areas are identified as Municipal Services. See plan at attachment "C".

(4) Until such time that a full assessment can be undertaken of the site it is not possible to identify all actions. However consideration and determination of the appropriate land uses will require:-

. investigation and mapping of existing land uses, engineering services, flood constraints, existing traffic and access, identifying heritage areas, buildings and structures, environmental constraints in relation to location near Lake Burley Griffin and the Jerrabomberra Wetlands Nature Reserve (eg. need to provide buffer zone and to avoid water/noise pollution).

investigation and mapping of existing land use, structures and tenure including the delineation of Territory and National Land.

establishment of appropriate urban design and built form principles for the site including access points, internal linkages, pedestrian and vehicular movement systems, public spaces and building precincts as well as limitations on height, form, scale and massing of buildings. It is anticipated that the cost of consultants fees for this preliminary work will be on the range of $45,000 to $50,000.

preliminary marketing assessment to determine the range of uses which may offer long term commercial viability and where these may fit within the commercial hierarchy.

Subject to the above, ACT Planning Authority would then proceed to generate various planning options and assess in greater detail the economic, physical, environmental and social impacts with a view to variation of the Territory Plan.

689

As a parallel action with the ACTPA, the Government will need to relocate remaining Lessees, demolish existing buildings (including removal of asbestos) and structures, determine the extent of soil contamination and undertake remedial work as necessary.

To develop the site along the lines of Queenslands "South Bank", which cost $100 million and included recreation beaches, canals and major performance venues, it may be necessary to relocate major services in the area, but this would be achieved at a significantly lower cost.

(5) To enable the sale of the site to proceed the Government would need to undertake:-
. marketing studies
possibility of arranging servicing of some of the sites
preparation of sale documents
estimated costs for this work are in the order of $2 million.

(6) No formal comparative analysis for "commercial sale" has been undertaken between Brisbanes South Bank and the Kingston Foreshore area.
Significant differences between the sites are:

. with South Bank staging of the Expo funds were made available to the Expo Authority for the development of the area. Because of the significance of Expo, funds were off-set by subsequent ticket sales, concession sales, merchandising and trademark licensing. This is an unlikely parallel with the Kingston site.

The difference in population, with Brisbane being well over 1 million and South East Queensland being a major destination for overseas and interstate tourists. Canberra has a population of nearly 300,000 with tourism potential but not in the order of South East Queensland. Planned land uses must reflect the projected population and visitor numbers which would support the facilities and ensure the viability of the development.

Future development of Kingston Foreshores would have to be uniquely tailored for Canberra.

Unlike South Bank the Kingston Foreshores site has major ACTEW service constraints.

690

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MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1177

Government Schools - Violence

MR CORNWELL - asked the Minister for Education and Training on notice on 22 February 1994:

In relation to violence in ACT government schools -

(1) How many incidents concerning attacks upon teachers were reported/recorded in (a) 1992 and (b) 1993.

(2) Does the Government intend to take action to require violent students and their parents to enter into a "no violence contract" as called for at the 1994 Australian Education Union National Conference.

MR WOOD - the answer to Mr Cornwells question is:

(1) No central records are kept.

(2) All ACT government schools are required to have specific policy and established procedures for management of students exhibiting inappropriate behaviour at ,school. The majority of. schools would .. deal with violent behaviour through the use of
counselling and "logical consequences" which might include:

- contact with.parents/guardians

- fair hearing of the students account of the
- incident

- a written commitment regarding use of other strategies-and renouncing (forswear) violent
. behaviours

. - monitoring of behaviour by the student and
his/her mentors and student management staff in
the school

. Repeated violence may lead to referral of the student to special .programs. and/or suspension from school.

A working party has reviewed the Departmental policy and its recommendations have been presented to the Executive for consideration. .

694

1

MINISTER FOR EDUCATION and TRAINING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1180

Canberra Institute of Technology -
Unsuccessful Enrolment Applicants

MR CORNWELL - asked the Minister for Education and Training -

How many people missed out on a place at Canberra Institute of Technology in 1994?

MR WOOD - the answer to the members question is as follows:

As I have noted on prior occasions it is very difficult to establish precisely how many applicants for places in mainstream courses were not able to gain enrolment, given the mix of direct and postal enrolments and at separate times in the year. For this year the assessment of unmet demand is further complicated by major improvements CIT have made in their enrolment processes and the. impact of major changes in demand for university places.

Overall I expect that unmet demand for CIT mainstream places in 1994 will be comparable to that estimated for 1993. The latest CIT estimates suggest a figure of something less than 4000 places for the year to date.

695

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1181

Primary Schools - Student and Teacher Statistics

MR CORNWELL - asked the Minister for Education and Training on notice on 14 February 1994:

(1) What were the individual names of ACT Primary Schools and what were their individual student numbers (a) below 150 students and (b) below 200 students.

(2) How many teachers were at each of the schools by name, at (1)(a); and (1)(b).

MR WOOD - the answer to Mr Cornwells question is:

(1 & 2)(a & b) ACT Government Primary Schools with less than 150 students and less than 200 students, with teacher numbers for each school are shown in the following table:

Location Name Enrolment Teachers
Full Time
Equivalent (FTE)
Co-operative School 69 3.00
Cook Primary 124 6.30
Hall Primary 158 8.60
Hughes Primary Introductory
English Centre 69 8.00
Jervis Bay Primary 82 4.00
Lyons Primary 124 7.70
Macquarie Primary 198 10.40
Melrose Primary 197 8.90
Narrabundah Primary 175 11.50
North Ainslie Primary _.
Introductory English Centre 53 5.00
Rivett Primary 185 9.25
Tharwa Primary 36 2.00
Uriarra Primary 15 1.80
Village Creek Primary
Introductory English Centre 30 3.00

Teacher FTEs do not directly correlate to student enrolment numbers. Teaching staff numbers are dependant on ESL, LOTE, special class, Kindergarten and reading recovery numbers as well as student enrolment numbers.

696

ATTORNEY-GENERAL
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1182

Schools - Burglaries

MR CORNWELL: asked the Attorney-General -

(1) How many incidents of break-ins to ACT schools were recorded in the recent 1993-94 Christmas/New Year school holiday period.

(2) Has any assessment of damage been made and; if so, what is the approximate total value.

MR CONNOLLY: The answer to Mr Cornwells question is as follows:

NOTE: The Australian Federal Police (AFP) Information and Statistical Services Branch has provided figures, as at 1 March 1994, pertaining to burglary offences committed at ACT schools which were reported to police between 18 December 1993 and 30 January 1994.
Property damage not associated with a burglary (i.e. where a point of entry has not been identified but criminal damage occurred) and its subsequent value, have not been included in this response.
Offence statistics are drawn from criminal offence reports submitted by investigating members who nominate the offences that have, prima facie, been committed.
In addition, it needs to be recognised that the alleged offences may not necessarily have occurred during the period specified. It may not be readily apparent that an offence has been committed and consequently it may go undetected for some time before being reported.

(1) There is no offence of break-in under the Crimes Act 1900. However, section 102(1) of the Crimes Act 1900, which relates to the offence of burglary, states:

A person who enters or remains in any building as a trespasser with intent -
(a) to steal anything in the building; or
(b) to commit an offence involving an assault on a person in the building or involving any damage to the building or to property in the building, being an offence punishable by imprisonment for 5 years or more,

is guilty of an offence punishable, on conviction, by imprisonment for 14 years.

697

Reports received by police during the period 18 December 1993 to 30 January 1994 disclosed 17 alleged burglary offences at ACT schools.

(2) The value of property damaged as a result of burglary offences committed at these premises was estimated by police at $1,505.00. However, I would stress that this figure is based on police estimates, generally made at the commencement of inquiries. Consequently, the actual value of property damage, and figures maintained elsewhere, may differ from these police estimates.

698

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1184

Canberra Festival - Suppliers of Goods and Services

Mrs Carnell - asked the Minister for the Arts

(1) What is the policy of the Festival in exclusive dealing rights with the suppliers of various goods and services.

(2) Why are such exclusive dealing rights entered into.

(3) What are the goods and services that are subject to such arrangements.

(4) Who are these arrangements with, and for how long, and for what consideration, and where are these businesses registered.

(5) In the event other providers of related goods and services expressing interest, who is responsible for the interpretation of these arrangements.

(6) What is the legal basis of these arrangements; and how long do applications for dealing rights take to process.

(7) Is any preference given to local suppliers of related but not similar products.,

(8) Can copies of these arrangements be provided, if not, why not.

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

Canberra Festival Inc is an incorporated non-profit community organisation, and as such is not part of the ACT Government Service. The organisation enjoys a close working relationship with the Government in the presentation of major events, and receives funding through a competitive grant application process. However policy decisions on matters such as contracts for the supply of goods and services are strictly a matter for the Board of Canberra Festival Inc.

699

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No. 1185

Government Service - Joint Ventures

MRS CARNELL: Asked the Chief Minister on 24 February 1994

In relation to ACT Government joint ventures -

(1) Is or has any Department or agency been involved in any joint ventures with private sector organisations; if so,
(a) what are these joint ventures; and
(b) who are the Directors of these joint ventures.

(2) Who are the public servants sitting as Directors on each of these joint ventures, either in a capacity representing the ACT or in some other capacity; and
(a) which represent the ACT; and
(b) which represent other interests.

(3) Do any public servants or members of their families or entities they are associated with have an interest in the joint venture or associated companies or other business enterprises; and
(a) what are their names, how are they associated; and
(b) what is their beneficial interest.

(4) Do ACT Government representatives receive any remuneration or any benefits directly or indirectly for their directorships; if so,
(a) how much; and
(b) are ACT Government representatives indemnified by the ACT Government for their duties as Directors.

(5) Can copies of the joint ventures be provided; and if not, why not.

(6) Can details of the expected proceeds to the ACT Government as a result of the joint venture be provided; and if not, why not.

(7) What are the comparative figures for the ACT for returns as a result of the joint venture and what were the original projections.

(8) What were the comparative returns from alternative means of development to the joint venture.

MS FOLLETT - The answer to the Members question is as follows

700

Joint ventures have been established in:

(a) ACT Housing Trust (Housing and Community Services Bureau, Attorney Generals Department);

(b) Department of Environment, Land and Planning;

(c) Canberra Institute of Technology; and

(d) Department of Education and Training.

(a) ACT Housing Trust

(1) The Housing Trust was involved in a joint venture with the Abbeyfield Society in 1988 to construct a house to provide a home for ten aged persons in -Ainslie with accommodation for a live in carer. The Commissioner for Housing entered the joint venture on behalf of the Housing Trust.

(2) The Commissioner for Housing represented the Housing Trust on this joint venture and was assisted by the Manager of the Property Development Section in day to day management.

(3) None of the Housing Trust officers or their families had any interest in the joint venture.

(4) Housing Trust officers involved in this joint venture received no benefit or specific indemnity.

(5) This joint venture agreement is commercially confidential and release of details would be inappropriate. However, related papers of a non confidential nature might be released subject to FOI guidelines which protect confidentiality.

(6) Capital funding for this $500,000 joint venture was provided by the Abbeyfield Society, through a grant of $100,000 from the Bond Corporation. The remaining costs, including the land, were met by the ACT Housing Trust.

(7) and (8) The return to the Housing Trust was the provision of a ten bedroom house for aged residents who qualify for Housing Trust support. The many benefits of joint ventures are:

- good integration of public housing into the community within large projects;
- the opportunity to participate in large developments offers economies of scale;
- the opportunity to develop otherwise isolated and locked up land holdings;
- the opportunity to participate in redevelopment by contributing land but not capital thus stretching limited liquid capital funds to achieve government objectives; and
- the opportunity to partner organisations with complementary strengths.

701

(b) Department of Environment, Land and Planning

(1) Details of joint ventures and directors of the joint venture nominee companies are at Attachment A.

(2) Leigh Osborne and Hans Sommer, who are officers of the Department, represent the Territory on these joint ventures.

(3) Neither Leigh Osborne nor Hans Sommer, members of their families or entities with which they are associated have an interest in the joint ventures or associated companies or other business enterprises.

The officers do not receive any remuneration or other benefits directly or indirectly for their directorships. The officers are indemnified through Directors and Officers Liability Insurance. The joint venture pays 90% of the premium and the remaining portion payable for both officers is paid by the Territory.

(5) Because of the commercially confidential nature of some of the detail in the Joint Venture Agreements, I am not prepared to table the documents in the Assembly. I will arrange for you to be briefed on the documentation if required.

(6) The expected return to the Territory from existing joint ventures, including both land and profit, is approximately $64M.

(7) Joint venture returns to date to the ACT Government for land and dividends for the Tuggeranong estates total $5,096,028. The original projected returns were $4,231,376.

The only return to date to the ACT Government from the other estates is a land payment of $4,900,000. The remaining joint venture returns of approximately $58M will be forthcoming progressively over the next five years.

(8) The alternative method of land development for these estates that was considered was to offer raw land estates to the private sector.

The estimated comparative return to the ACT Government by this method of development for the Tuggeranong estates would have been approximately $2M and the estimated comparative return for the other estates is approximately $27M.

(c) Canberra Institute of Technology

(1) The Canberra Institute of Technology is not involved in any joint ventures as defined under Section 10 of the Canberra Institute of Technology Act 1987. However, the Institute entered into a joint venture agreement, approved by the Minister, with Wang Australia Pty Ltd on 19 September 1990. This agreement expired on 20 September 1993. Details of this agreement as required by the question are as follows:

(a) The parties mutually desired to establish a continuing collaborative arrangement upon the terms and conditions contained in the contract with the objectives of:
(i) broadening the range of computer based courses offered by the Institute; and
(ii) providing opportunities for reciprocal access to the respective facilities and resources of Wang and the Institute.

(b) The Director of the joint venture was the person occupying or performing the duties of the office of Director of the Institute appointed under the Canberra Institute of Technology Act 1987 (ie for this period, Mr N W Fisher).

(2) (a) The Director of the Canberra Institute of Technology represented the ACT.
(b) Nil.

(3) Not that the Institute is aware of.

(4) There were no directorships and no ACT Government representative received any remuneration or any benefits directly or indirectly.

(5) A copy of the Wang joint venture can be provided by the Canberra Institute of Technology.

(6) Yes. The agreement provided for the profit to be disbursed equally between the partners, the then ACT Institute of TAFE and Wang. However it was agreed by the partners to reinvest the profits back into the two laboratories to upgrade equipment and purchase software. Over the three year life of the agreement, the profits so reinvested were in excess of $32,420, eg $28000 was spent to upgrade the two computer laboratories to Novell Local Area Network and approximately $17,000 to upgrade the Random Access Memory on 22 work stations.

(7) The aim of the joint venture was:

• to provide the ACT Institute of TAFE with two computer laboratories which the Institute, at the time, would not have been able to provide. This provided a complete laboratory dedicated to public access classes and approximately 50% of another laboratory for public access classes;

• to provide Wang clients with professional training on a commercial cost basis.

Accordingly, there were no projections in quantifiable terms. Total profit for the joint venture was approximately $32,420 from the total income of $73,160.

(8) There would have been a cost of $170,000 - $200,000 to establish comparable laboratories, against the figure of $85,000 in the joint venture.

703

(d) Department of Education and Training

(1) English as a Second Language Project: The Department is co-operating with Acer Australia Limited in the investigation of the economic viability of a proposal to develop multimedia courseware for English language tuition. Public servants represent the Department on a steering committee which oversights the investigation.

(2) Dr Banks and Mr Mason represent the Department only.

(3) No public servant associated with the project.

(4-8) Not applicable.

704

Attachment A

Joint Ventures with Department of Environment, Land and Planning

Myrina Pty Limited
ACT HIA Services (ACT)
John Anderson
(developed estates in Pty Limited (on behalf of Terence Chamberlain Banks and Calwell)

Tables included.

705

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No. 1187

Government Service - Staff Statistics

MRS CARNELL - Asked the Chief Minister upon notice on 24 February 1994:

In relation to staffing

(1) What is the current number of staff employed by the ACTGS (including all agencies such as ACTEW, ACTTAB, etc.), and what were the comparable figures for pay 26 (or 27) for 1993, 1992 and 1991.

(2) What is the breakdown by all officer grades at the current time, and what were the comparative figures for 1993, 1992 and 1991.

(3) if the information asked for is not available, why is it not available.

MS FOLLETT - The answer to the Members question is as follows:

(1) The number of staff employed by the ACTGS is as follows:

Pay 14, 1993/94 (payday 30 December 1993), 22399;

Pay 26 1992/93, (payday 17 June 1993), 22805;

Pay 26 1991/92, (payday 18 June 1992), 22450; and

Pay 1 1991/92, (payday 11 July 1991), 23060.

(The pay 1 1991/92 figure of 23060, varies from that quoted in the 1991/92 Annual report (22957) due to an initial collation error and the use of full-time equivalents by a payroll area at the time.)

The above staffing information is provided by the various ACTGS payroll areas and all staff on the payroll are included, irrespective of whether or not they have received a paid entitlement during the prescribed reporting period. The payroll information is therefore comprised of all paid and unpaid permanent full-time and part-time staff, casuals and inoperatives. This is in contrast to the breakdown by officer grades which are manually provided by each of the different agency administrative area and which normally show the numbers of active staff as opposed to the total on the payroll. This is why there is a discrepancy between the Pay 26 1992/93 payroll numbers and the Pay 26 1992/93 ACTGS employment groups numbers. Once all ACTGS staff are on the Human Resource Management System (HRMS) both sets of figures will reconcile.

706

(2) A table showing the breakdown of the staffing groups as at Pay 7 1993/94, (23 September 1993), the latest figures available, Pay 20 1992/93, (25 March 1992/93) and Pay 26 1992/93, (17 June 1993), is attached.

The collection of data relating to the numbers of staff in the various grades and employment streams within the whole of the ACTGS was commenced during the 1992/93 financial year. This information is requested from, and provided by the different ACTGS agencies on a manual basis at the same time that the staffing statistics are provided by the corporate service payroll areas which service their agency clients.

(3) Statistics on whole of government employment group numbers prior to 1992/93 were not collected. It would be an enormous and time consuming task to research and collate the requested information. I am not prepared to authorise the use of the very considerable resources that would be involved in providing the detailed information to answer the Members question.

707

12 April 1994

ACTGS EMPLOYMENT GROUPS

As Reported by Agencies

Table included.

708

TREASURER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No. 1189

Commonwealth Funding - Allowances

MRS CARNELL - Asked the Treasurer upon notice on 24 February 1994:

(1) In relation to National Capital Allowances, Transitional Allowances, Special Fiscal Needs and Cross Border Allowances:

(a) What is the value of each category of allowance to- the ACT;

(b) What are the components of each of these Allowances, and the value of each allowance;

(c) (i) What has been the value of each of these Allowances since self government;
(ii) What are the current expectations for future values; and

(d) What variations other than phasing out are expected in the values of these allowances?

(2) Are there factors that the ACT Government believes the ACT is not fully compensated for as the National Capital, which relate to services to the diplomatic community and other services, and

(a) (i) What are these services;
(ii) What is the cost to the ACT of providing the services;
(iii) How much Commonwealth funding is provided to support the services;

(b) What action has the ACT Government taken to address any deficiencies?

MS FOLLETT - The answer to the Members question is as follows:

(1) Allowances assessed by the Commonwealth Grants Commission

National Capital Allowances, Transitional Allowances and Special Fiscal Needs were first explicitly received in 1991-92, the first year that funding for the ACT was based on a per capita relativity. These allowances were based on the Commonwealth Grants Commissions Fourth Report 1991 on financing the ACT. Although National Capital Allowances and Special Fiscal Needs were assessed in the Commissions earlier reports, components of Commonwealth funding to the ACT before 1991-92 were not based on these reports.

709

National Capital Allowances

National Capital Allowances are assessed to take account of indirect influences such as higher maintenance costs due to the National Capital Plan and higher levels of Commonwealth ownership of land. Specific allowances are assessed when the ACT is not compensated directly by the Commonwealth, for example on a fee for service basis, or when the influence is not already taken into account by the Commissions normal assessment methodology. The levels of specific National Capital Allowances for State-type services since 1991-92 are shown in Table 1 below, together with estimates for 1994-95.

Table 1: National Capital Allowances, 1991-92 to 1994-95

	1991-92 ($m)	1992-93 ($m)	1993-94 ($m)	1994-95 ($m)
Expenditure				
Government Primary Education	0.056	0.058	(a)	(a)
Non-Government Primary Education	-0.011	-0.012	(a)	(a)
Government Secondary Education	0.157	0.161	(a)	(a)
Non-Government Secondary Education	0.020	0.020	(a)	(a)
Technical and Further Education	0.197	0.202	(a)	(a)
Culture and Recreation	1.194	1.226	1.495	1.526
National Parks and Wildlife	1.799	1.846	1.914	1.953
Police	0.281	0.288	-	-
Mapping and Surveying	1.967	0.288	-	-
Planning and Environment	0.281	0.288	0.598	0.610
Public Safety and Emergency Services	0.281	2.016	2.093	2.136
Metropolitan Transit	6.166	7.114	-	-
Revenue				
Statutory Corporation Payments	1.096	1.217	-	-
- Electricity and Gas				
TOTAL	13.484	14.716	6.100	6.224

(a) These amounts are incorporated in the Transitional Allowances and reflect the above standard costs resulting from indirect National Capital influences.

The methodology for assessing these allowances was altered in the Commissions Report opt General Revenue Grant Relativities 1993. As a result, a number of allowances were discontinued or absorbed into other factor assessments. The most significant was for Metropolitan Transit ($7.114m in 1992-93). In the Commissions

1993 Review the allowance was effectively replaced by new assessment methodology and the specific allowance was discontinued from 1993-94.

The current per capita levels of the remaining allowances, as determined in the 1993 Review, are shown in Table 2. These per capita levels are expected to remain unchanged until the next methodology review, due in 1998. The allowances can be expected to increase in line with population growth, which is currently forecast at 1.8% per annum.

Table 2: Per Capita levels of National Capital Allowances, 1993-94 to 1998-1999

Expenditure category	$PC
Culture and Recreation	5.00
National Parks and Wildlife	6.40
Planning and Environment	2.00
Public Safety and Emergency Services	7.00
TOTAL	20.40

No specific allowances are made for the impact of National Capital influences on the ACTs revenue capacity as this is included in the Commissions normal process for measuring the relative revenue raising capacity of the States and Territories.

Payments by the Commonwealth for the full cost of direct services in national areas are in addition to the specific allowances made by the Commission. They are expected to continue whilst the ACT agrees to continue to provide the services.

In addition, the ACT received $18.3m in 1993-94 for National Capital influences on municipal services. This amount is indexed and is expected to continue in real terms in future years.

Transitional Allowances

Transitional Allowances recognise the additional costs experienced by the ACT in the transition period between the Commonwealth policies inherited at the time of self government and the full implementation of the ACTS own policies. Table 3 shows the levels of Transitional Allowances over the life of the allowances.

711

Table 3: Transitional Allowances, 1991-92 to 1997-98

	91-92 ($m)	92-93 ($m)	93-94 ($m)	94-95 ($in)	95-96 ($m)	96-9797-98 ($m)
Expenditure						
Hospital Services	31.4	26.3	12.3	21.5	14.3	7.2 -
Education	29.7	27.1	25.8	21.0	14.0	7.0 -
National Parks & Wildlife	2.2	1.5	1.2	-	-	- -
Police (a)	10.3	7.2	7.0	7.6	7.6	7.6 (b)
Administration of Justice	1.4	1.8	-	-	-	- -
Public Safety - Other	6.7	10.0	-	-	-	- -
Superannuation	5.7	3.1	0.4	1.6	-	- -
Debt Charges	6.6	8.8	1.0	1.5	--	- -
All other	-5.5	-2.0	-	-	-	- -
Revenue						
Hospital Revenue	-6.3	-5.6	-4.0	-4.6	-3.1	-1.5 -
Administration of Justice	1.1	0.8	-	-	-	- -
Total Transitional Allowances	83.3	78.9	43.7	48.6	32.8	20.3 0.0

(a) The figures for police for 1993-94 and future years differ from the figures published by the Grants Commission as they have been adjusted downwards by $2.2m to reflect the revised police agreement. This agreement reduced the costs attributable to ACT community policing by $2.2m.

(b) Under the Grants Commissions recommendations, the allowance for police is being maintained at 100%. No arrangements have yet been made between the ACT and the Commonwealth for funding after 1996-97.

Based on the Grants Commissions present method of assessment, Transitional Allowances will be phased out by 1997-98. However, the phasing out period is to be reviewed on an annual basis in conjunction with Grants Commission updates.

712

Special Fiscal Needs

Allowances for special fiscal needs are intended to ensure that the ACT retains its entitlement to funds provided to the States for functions outside the scope of the Commissions inquiries, yet provided to the ACT through its general revenue grant. It is expected that these allowances will be maintained until they are replaced by alternative funding arrangements. Table 4 shows the allowances for special fiscal needs.

Table 4: Special Fiscal Needs, 1991-92 to 1994-95

	91-92 ($m)	92-93 ($m)	93-94 ($m)	94-95 ($m)
Family Law Matters	0.1	0.3	0.2	0.2
Canberra Institute of the Arts (a)	2.8	2.6	2.5	1.6
Corporate Affairs Compensation	2.8	3.0	3.2	3.2
Agency Payments	3.2	3.5	-	-
Items of a Capital Nature	-	11.3	12.2	12.3
TOTAL	8.9	20.6	18.1	17.3

(a) The reduction for the Canberra Institute of the Arts in 1994-95 reflects a half year payment. From 1 January 1995 the Commonwealth will fund the higher education component of CITAs expenditure directly.

Cross Border Allowances

The Commission does not identify Cross Border Allowances explicitly. Instead, cross border influences are included in individual category assessments as disability factors. The categories where a cross border factor is included are shown in Table 5, together with the increase in funding for that category that was assessed in the 1993 -Review. .

In the 1993 Review the Commission provided estimates of the total redistributive effects of factor assessments. These estimates show that as a result of including cross border assessments the ACT received an additional $25m in 1993-94 (excluding Hospital Services). Comparative figures are not available for other years.

Cross border factors for education categories are only assessed for the noncompulsory years of schooling, that is, years 11 and 12. For the compulsory years, the assessments are based on numbers of school-aged children less an adjustment for non-residential students, and therefore cross border influences for these categories cannot be isolated.

7

13

Table 5: Categories that include a Cross border factor and the 1993-94 effects

Category	$m
Government Secondary Education	3.381
Non-Government Secondary Education	0.407
TAFE	6.280
Nursing Home Services	0.368
Mental Health Services	0.320
Community Health Services	3.976
Police	3.351
Administration of Justice	3.704
Culture and Recreation	1.384
TOTAL (a)	23.171

(a) Excludes impact of adjustment for non-residential students enrolled in compulsory years of schooling.

Under the Medicare agreement the ACT also receives direct compensation from NSW for the cost of treating NSW patients in the ACT. This compensation is outside the scope of the Commissions assessments and is negotiated directly between the ACT and NSW. Net compensation payments for 1993-94 will total $25.5m.

2. Adequacy of National Capital Compensation

At the request of the ACT Government, the Grants Commission addressed a number of issues relating to diplomats in the 1994 Update report. These issues related to children of diplomats in the post compulsory years of schooling and in TAFE, and to motor vehicle registration fees and taxes.

Children of diplomats contribute to the ACTs above average participation rates in the post compulsory years of schooling and in TAFE. The 1993 Review recommended that funding be based at least partially on the Australian average participation rates, and consequently the ACT was not being fully compensated. This was formally drawn to the Commissions attention by the ACT, and the matter was addressed in the 1994 Update report.

In relation to motor vehicle registration fees and taxes, in the 1993 Review the ACTS revenue base was assessed as the total number of vehicles on the register. Diplomatic vehicles, which are not subject to tax, are included on the register and were therefore included in the ACTs revenue base. This had the effect of over-estimating the ACTs

revenue raising capacity from this source. As a result of representations made to the Commission by the ACT, diplomatic vehicles were excluded from the ACTs revenue base in the 1994 Update report.

Arrangements have existed over a number of years to monitor the adequacy of compensation for costs imposed on the ACT as a result of the location of the National Capital. Where anomalies have become evident, such as those mentioned above, the ACT has addressed them. These matters are kept under review and areas where anomalies might arise will continue to be pursued. In light of the above, compensation to the ACT as the National Capital is considered to be adequate in all areas.

715

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1190

Housing Trust Properties - Maintenance Costs

MR CORNWELL: Asked the Minister for Housing and Community Services, in relation to ACT Housing Trust properties in 1992-93:

(1) How much money was spent upon maintenance of Trust properties.

(2) How much actual income was received from properties in rent.

(3) What proportion of maintenance costs as a proportion of total maintenance costs was spent upon: (a) houses less than ten years old; (b) houses more than ten years old; (c) flats less than ten years old; (d) flats more than ten years old; (e) bedsits less than ten years old; (f) bedsits more than ten years old; (g) Aged Person Units less than ten years old; (h) Aged Person Units more than ten years old.

MR CONNOLLY: The answer to the Members question is as follows -
(1) $13,346,958.
(2) $42,959,538
(3) Maintenance costs data for the financial year 1992-93 is not available because the computer-based maintenance information system only commenced operation in August 1992. Percentages of maintenance costs on orders raised in the 1993 calendar year are available, however, and are provided as follows:

(a) 12.9%;

(b) 61.4%;

(c) 1.5%;

(d) 15.6%;

(e) There are no bedsitter units less than ten years old;

(f) 5.9%;

(g) 1.5%;

(h) 1.2%;

716

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1191

Housing Trust Properties - Statistics

Mr CORNWELL: Asked the Minister for Housing and Community Services - In relation to ACT Housing Trust properties

(1) How many (a) houses; (b) flats; (c) bedsitters; (d) APUs did the Trust have in 1992-93.

(2) What was the estimated total value of the Trusts properties at that time.

(3) What was the estimated total value of rent for each type of property at (1) in 1992-93.

(4) What was the total actual rent received from each type of property at (1) in 1992-93.

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

(1) As at 30/6/93 (a) 8,199; (b) 2,190; (c) 924; (d) 1,044.
(2) As at 30/6/93 - $1,095,520,000
(3) (a) $62.360m; (b) $14.040m; (c) $4.307m; (d) $6.457m.

(4) It is not possible to provide the information in the categories requested.

717

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION No 1192

Housing Trust Properties - Flat Complexes

MR CORNWELL - Asked the Minister for Housing and Community Services - In relation to the following ACT Housing Trust flat complexes in Dickson, Lyneham, Jerilderie, Fraser, Gowrie, Stuart, Bega, Allawah, Currong and Northbourne

(1) How many one, two and three bedroom flats are in each.

(2) What is the average rental value per week of these one, two and three bedroom flats in each complex; and when was a valuation for rent setting purposes last done and what criteria were used.

(3) What is the total actual rent obtained from each complex per week.

(4) When approximately was each complex constructed.

(5) What is the estimated value of each if these complexes.

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

(1) NUMBER OF FLATS

Complex Name	B/S	1 Bed	2 Bed	3 Bed
Dickson Flats			21	
Lyneham				
Owen Flats			24	24
Lyneham Flats			7	
Hambledon Court			8	
Corryton Gardens			58	
Jerilderie Court			18	36 8
Fraser Court			5	88 11
Gowrie Court			72	
Stuart Flats		29	117	
Bega Flats			113	
Allawah Flats			114	
Currong Flats			184	28
Northbourne Flats			70 154	24

718

(2) AVERAGE WEEKLY RENTALS

Complex Name	B/S	1 Bed	2 Bed	3 Bed
Dickson Flats			93.50	
Lyneham				
Owen Flats			126.00	143.00
Lyneham Flats			93.50	
Hambledon Court			123.00	
Corryton Gardens			123:00	
Jerilderie Court			130.00	153.00 169.50
Fraser Court			126.00	148.50 169.50
Gowrie Court			143.00	
Stuart Flats		96.50	148.50	
Bega Flats			145.50	
Allawah Flats			145.50	
Currong Flats			122.00	145.50
Northbourne Flats			122.00	145.50 163.00

The valuation for rent setting was done in March 1990. The basis used was market rental. Rents for Housing Trust properties are reviewed annually and adjusted according to movements in the private rental market. The most recent rent review was carried out in October 1993.

(3) The weekly income received for these properties varies and depends upon the number of vacancies and the extent of rebates granted to individual tenants in each week.

A detailed answer to the question would require the allocation of a considerable level of resources which are currently dedicated to other tasks.

719

(4) CONSTRUCTION DATES

Complex Name	Date
Dickson Flats	1962
Lyneham	
Owen Flats	1962
Lyneham Flats	1962
Hambledon Court	1989
Corryton Gardens	1987
Jerilderie Court	1978
Fraser Court	1973
Gowrie Court	1959
Stuart Flats	1959
Bega Flats	1957
Allawah Flats	1959
Currong Flats	1959
Northbourne Flats	1958

(5) ESTIMATED VALUE OF COMPLEXES

Complex Name	Value
Dickson Flats	935,216
Lyneham	
Owen Flats	3,047,127
Lyneham Flats	325,038
Hambledon Court	1,020,012
Corryton Gardens	3,463,549
Jerilderie Court	4,864,186
Fraser Court	9,384,936
Gowrie Court	5,312,702
Stuart Flats	12,480,810
Bega Flats	9,536,333
Allawah Flats	9,625,914
Currong Flats	13,576,644
Northbourne Flats	19,337,530

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION N0.1193

Housing Trust - Rent Arrears

MR. CORNWELL - Asked the Minister for Housing and Community Services -In relation to your reply to Question 115 that in 1991-92 some $2,053,424 was outstanding in ACT Housing Trust current accounts -

(1) How much of this money has now been repaid.

(2) What proportion of the still outstanding debt is (a) 2 to 3 years old; (b) 3 to 5 years old; and (c) more than 5 years old.

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

(1) This information is not readily available because it would require a review of every transaction in every individual account in debt at that time for the period between 1991-92 and 24 February 1994. The level of current account arrears at 4 March 1994 was $2,021,467.

(2) On 2 March 1994 the proportion of the current account arrears which was 2 to 3 years old was 0.12%. There are no current accounts with arrears older than 3 years.

721

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION N0.1194

Housing Trust - Rent Arrears

MR. CORNWELL - Asked the Minister for Housing and Community Services -In relation to your reply to Question on Notice No 937 that, at 30 June 1993, some $2,085,577 was outstanding in ACT Housing Trust current accounts -
(1) How much of this money has now been repaid.
(2) How much at 31 December 1993 is outstanding in
(a) current; (b) vacated accounts.

(3) At 31 December 1993 how many (a) vacated; (b) current accounts totalled - (i) $10,000 or more; (ii) $5000-$9,999; (iii) $1,000-$4,999; and (iv) below $1000.

(4) How many properties are represented in (2).

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

(1) The amount repaid against each account outstanding at 30 June 1993 is not readily available because it would require a review of every individual account in debt at that time, and a comparison to the current state of the accounts. This would involve the allocation of a considerable level of resources which are currently dedicated to other tasks.

(2) (a) The value of current account arrears at 4 March 1994 was $2,021,467 and at 31 December 1993 was $2,439,884. However, this latter figure is a cyclical distortion due to the Christmas/New Year period as agencies which receive payments from Housing Trust tenants are closed during this period and money received by agencies immediately prior to this period may not have been processed.

(b) $3,109,647 - vacated accounts.

722

(3) (a) Information regarding vacated accounts is not readily available in the format requested.

(b) Information for current accounts is also not readily available in the format requested. The number of tenant accounts classified according to available information is detailed below;

CURRENT ACCOUNTS IN ARREARS
i) below $100 2657
$100 - $600 3518
$600 - $1000 X41
TOTAL 6716
ii) $1000 - $4000 543

iii) $4000 and above 25

7284

4) The number of properties with current or vacated arrears is not an appropriate measure since both vacated and current arrears can be incurred against the same property. The number of tenant accounts in each category is detailed below.

(a) 7284
(b) 3369

723

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION No.1195

Housing Trust - Rent Arrears

MR. CORNWELL - Asked the Minister for Housing and Community Services -In relation to the claim (Hansard, 1 April 1993, Page 1034) that $4.28 million was outstanding in rent arrears for ACT Housing Trust existing tenants -

(1) How much of this amount has been repaid.

(2) What steps are being taken to recover the balance.

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

(1) Information on the amount repaid in the period 1 April 1993 to 24 February 1994 against each account outstanding is not readily available. Production of the data would require a review of every individual account in debt at that time and tracking of all payments in the period. It would involve the allocation of a considerable level of resources to provide the information. The current account arrears value at 4 March 1994 is $2,021,467.

(2) Rent arrears agreements have been negotiated with the majority of current clients. Legal action has been taken to evict tenants where appropriate. Debts of previous tenants have been referred to the Housing Trusts debt collector, Laurens and Co (NSW) Pty Ltd.

724

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION No 1196

Housing Trust Properties - Bedsitter Complexes

MR CORNWELL - Asked the Minister for Housing and Community Services - In relation to the following ACT Housing Trust bedsitter complexes in Burnie, Kanangra, MacPherson, Condamine and Lachlan Courts -

(1) How many bedsitters are in each complex.

(2) What is the total average rental value per week of each of these complexes; and (a) when was the rental assessment made; and (b) what criteria were used in each case. -

(3) What is the total actual rent obtained from each complex per week.

(4) When approximately was each complex constructed.

(5) What is the estimated value of each of these complexes.

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

(1) NUMBER OF BEDSITTERS

Complex Name	Number
Burnie Court	263
Kanangra Court	118
MacPherson Court	142
Condamine Court	214
Lachlan Court	118

(2) AVERAGE WEEKLY RENTALS

Complex Name	$
Burnie Court	103.50
Kanangra Court	95.50
MacPherson Court	93.50
Condamine Court	93.50
Lachlan Court	93.50

725

These figures represent the full weekly rent payable. Some tenants will be in receipt of rental rebates which are assessed on their gross income.

(a) 24 October 1993.

(b) Market rental.

(3) This information is not readily available.

(4) CONSTRUCTION DATES

Complex Name	Date
Burnie Court	1973
Kanangra Court	1965
MacPherson Court	1963
Condamine Court	1960
Lachlan Court	1959

(5) ESTIMATED VALUE OF COMPLEXES

Complex Name	Suburb	Value
Burnie Court	Lyons	12,265,226
Kanangra Court	Reid	5,841,082
McPherson Court	OConnor	6,836,499
Condamine Court	Turner	10,352,498
Lachlan Court	Barton	6,333,342

The values are indicative capital values, which were provided in 1990 by a consultant, and are based on market valuations, that take into account construction type, size of unit and complex, location and any additional facilities.

726

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1197

Housing Trust Properties - Age and Value

Mr CORNWELL: Asked the Minister for Housing and Community Services - In relation to ACT Housing Trust stock -

(1) How many (a) houses; (b) flats; (c) bedsitters; (d) Aged Persons Units (APU) are - (i) less than 10 years old; (ii) between 10 and 20 years old; (iii) between 20 and 30 years old; (iv) between 30 and 40 years old; (v) more than 40 years old.

(2) What is the estimated value of stock in each category in each of the five periods listed in (1).

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

As at 28/2/94

Table included.

(2) The preparation of a detailed answer to this question would require the allocation of extensive resources, which are not available.

727

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION N01198

Housing Trust - Waiting List

MR CORNWELL - Asked the Minister for Housing and Community Services -In relation to the statement (page 8, ACT Budget Newsletter of December 1993) "While 66% of the stock is standard housing, only 11.4% of those on the waiting list are nuclear families requesting a traditional house"

(1) What do the other 88.6%, by percentage, want in terms of accommodation.
(2) Does this mean some standard housing stock therefore is unused or inappropriately used to house waitlisted people.
(3) If only 11.6% want standard housing which is 66% of stock, should not the Trust sell off more stock to obtain funds to accommodate waitlist needs, and if not, why not.
(4) Of properties which the Trust has built or will build this financial year, how many are (a) three bedroom houses; (b) four or more bedroom houses; (c) two bedroom houses; (d) Aged persons Units; (e) bedsitters; (f) one bedroom flats; (g) two bedroom flats; (h) other (please specify).

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

(1) Of the 6 385 households seeking accommodation as at 31 January 1994, 29.8% were registered for houses, 59.7% were registered for single flats, 7.6% were registered for family flats and 2.9% were registered for aged accommodation.
(2) No.
(3) The Housing Trust sells dwellings each year, and these funds are recirculated into capital funds to produce stock that meets the needs of its client groups.

(4) Properties to be built in 1993/94 are:

(a) 31 three bedroom houses.
(b) 3 four or more bedroom houses.
(c) 7 two bedroom houses.
(d) 22 Aged Persons Units.
(e) 0 bedsitters.
(f) 39 one bedroom flats.
(g) 35 two bedroom flats.

728

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION N0.1200

Housing Trust - OConnor Property

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

In relation to the ACT Housing Trust property at 13 Boobialla Street, OConnor-

(1) Approximately when was the house vacated; and (a) were their any rent arrears; and (b) if so, how much.

(2) Will the collection of any repair costs be placed in the hands of the Trusts debt collectors.-

(3) Was the house refurbished 3 to 4 years ago, and (a) if so, what was the cost of the refurbishment; and (b) if not, when was it last refurbished and at what cost.

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

(1) The house was vacated on 3 February 1994. It would be a contravention of the Privacy Act to reveal any information about a tenants rent account.
(2) Yes.
(3) The property has been refurbished. Work was completed on 15 March 1989 at a cost of $29,743.

729

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1201

Housing Trust Properties - Damage by Tenants

MR CORNWELL: Asked the Minister for Housing and Community Services, in relation to tenant damage to ACT Housing Trust properties in (a) 1991; (b) 1992; (c) 1993:

(1) How many invoices were sent to Trust tenants seeking payments for the cost of repairs other than "wear and tear" in each year.
(2) What was the total value of the invoices for each year.

(3) How much money has been repaid to the Trust as a result of these invoices in each of these years.

(4) How many of these tenants had vacated in each year; and are they being chased by the debt collection service for these costs.

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

The information is not readily available for the calendar years although the financial year data is set out below:
(1) (a) 1991 /92 - 102*
(b) 1992/93 - 657

(2) (a) 1991/92 -
$45,223*
(b) 1992/93 - $79,453
(3) (a) 1991 /92 - $2,048
(b) 1992/93 - $3,259

(4) Outstanding recoverable maintenance debts of vacated tenants were passed to a private debt collection service for recovery action. The information sought on the number of vacated tenants each year is not readily available.

* In the response to Question on Notice number 544 in February 1993, the number and value of sundry debtors in 1991/92 was quoted as 100 and $47,271.66 respectively. These amounts have now been revised.

730

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION ON NOTICE NO 1202

Housing Trust Properties - Stromlo Forest Settlement

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

(1) Is the ACT Government breaking a 1984 Agreement between ACT Housing Trust and ACT Forestry that preference would be given to forestry workers for housing at the Stromlo Forestry Settlement; and if not, why not.

(2) Is there another, later, agreement which changes (1), and if so, (a) what are the details; and (b) can a copy be provided to interested persons, including myself.

(3) If there is a later agreement; if so, (a) how widely was it disseminated when reached, e.g. were ACT Forests and the relevant unions advised; and (b) if not, why not.

(4) If relevant parties at (3) were not advised of a new post-1984 agreement, does this not indicate that they have been misled.

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

(1) A 1984 agreement between the Commonwealth Department of Territories and Local Government and employees of ACT Forests specified that, in allocating forest houses, preference would be given to people on the rural housing waiting list who were employed by ACT Forests and who had a need to live in forest areas.

Public housing in the Territory became subject to the requirements of the Housing Assistance Act 1987 and relevant gazetted housing assistance programs prior to self government.

In 1990 the Kaine Government entered into the Commonwealth State Housing Agreement. This legislation provides for housing assistance to be granted on the basis of need. Forest employees who meet the needs criteria for public housing and are registered on the waiting list for rural housing are allocated housing in accordance with their requirements as soon as it becomes available for them. However, there is no provision in the legislation to grant them priority over other applicants.

(2) With the exception of a small number of job tied houses, the allocation arrangements of the 1984 agreement have been overtaken by the legislation mentioned in the answer to (1). There is no later agreement.

(3) Not applicable.

(4) Not applicable.

731

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION N0.1204

Housing Trust Properties - Subleasing

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

Further to your reported comment (The Canberra Times, 19 February 1994) that you had recently directed that the practice of ACT Housing Trust sublets would cease -

(1) From what date will the practice cease.
(2) How many sub-lets will still be operating at that time.
(3) Why would an "extra clerk" be required in the Trust and in the Treasury to process "the few matters of this type which would be allowed in the future" when the Treasury already operates land tax charges on private landlords and the Trust recently has acquired ISIP.

MR. CONNOLLY - The answer to the Members question is as follows:
(1) The instructions have already been issued.
(2) The information is not readily available. The preparation of a precise answer would require the allocation of significant staffing resources.

(3) There is clearly additional administrative work which therefore has resource implications.

732

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION No.1205

Housing Trust Properties - Damage by Tenants

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

In relation to the tenants who trash ACT Housing Trust properties -

(1) What action is taken against such tenants still in residence.

(2) (a) are those who have vacated allowed back into Trust property; and (b) if so, why; and (c) is there a special waiting time.

(3) Are records kept of tenants who trash Trust property.

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

(1) Tenants are given an opportunity to repair the damage they have caused to the property at their own expense. If they do not do so, the Housing Trust carries out the maintenance and charges the tenants with the repair costs. If the Housing Trust determines that tenants have breached the clause in their tenancy agreements in relation to the upkeep of their property, it will consider terminating their tenancies.

(2) (a) Eligible persons may apply to be registered for housing assistance. However, the Commissioner for Housing has the discretion to refuse to grant assistance to an applicant who has breached a term or condition of a previous tenancy agreement to which the Commissioner was a party.

(b) See (a) above.

(c) No.

(3) Yes.

733

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1207

Government Schools - Sport and Physical Education

MR CORNWELL - asked the Minister for Education and Training on notice on 24 February 1994:

In relation to the findings of the Working Party of the Physical Education and Sport Consultative Committee, what progress has been made for the following strategies to be completed by the end of 1993 - .

(1) Primary School Sports Association and Secondary School Sports Association to explore possibilities for effective interschool and interdistrict/zone sports programs.

(2) Develop a process for approval of sports to participate in interstate school sporting competitions in 1994 and beyond.

(3) Develop a coordinated program of inservice training by the Department, Aussie Sport and community sport that upgrades the skills of teachers.

(4) Approach coaching council to develop more appropriate level O and level 1 courses for teachers.

MR WOOD - the answer to Mr Cornwells question is:

Very good progress has been made on the four strategies from the strategic plan developed by my departments Physical Education and Sport Consultative Committee. ,

Implementation of the first two strategies began in term 4 last year and the resulting programs are in place for this year. The two latter strategies were also actioned last, year and further consultation and development between the various organisations involved, such as the ACT Aussie Sport unit, community sporting organisations and the Australian Coaching Council, are continuing.

Full implementation is dependant on the availability of resources.

734

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1210

**Environment, Land and Planning Portfolio -
ACTMAP Contract**

Mr Humphries - asked the Minister for the Environment, Land and Planning

In relation to Gazette No. 2,.dated 19 January 1994, and a purchase reference contained in it, No 8377, for contract assistance valued at $6,000 to Mr Rohan Fernando of 7 Goodenia Street, Rivett ACT 2611

(1) For what services is this contract assistance being paid.

(2) What is the time frame for this contract assistance. r
(3) Does this represent a new contract or an existing contract being renewed: if not, what does it represent.

(4) Has all the $6.,000 been expended: if not, what portion has been.

(5) what performance criteria will be used to judge Mr Fernandos performance.

(6) Were tenders sought for the contract: if not, why not.

(7) What qualities brought about Mr Fernandos selection.

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

(1) Mr Fernando performed a range of duties relating to the input of land related data into the major graphical data base within Land Division known as ACTMAP. These duties included data integrity checking of survey control mark data, the capturing of major building footprints within ACTMAP and data integrity checking of data transferred from the previous Digital Cadastral Data Base of the ACT, into ACTMAP.

(2) The time frame for this contract was 16 August 1993 - 26 November 1993. This was subsequently extended to the 17 December 1993 as the $6, 000 had not been fully expended and the assistance being provided to the office by Mr -Fernando was of great benef i t in the light of insufficient staffing resources to complete this work.

735

(3) The contract was a renewal of an existing contract which had commenced on 20 April 1993.

(4) The $6,000 has now been fully expended

(5) Mr Fernando has been physically located for the entire period of the contract in the section within which he has been employed. As such he has had direct, one on one, supervision. This has enabled his performance to be continually monitored.

(6) Tenders were not sought for the contract. In early 1993 the Red Cross Society, through their organisation Red Cross Involve, approached the Land Information Office (LIO), amongst other employers, with a view to finding employment for Mr Fernando and other people on their books. Mr Fernando graduated in Applied Science, majoring in Remote Sensing and Geographic Information Systems, from the University of Canberra in 1992 and had, until that time, been unable to find employment. It-was apparent that Mr Fernandos technical background could be of some benefit in the work being performed by this office. Mr Fernando consequently commenced work experience on the 9 February 1993 under the auspices of the Red Cross and at no expense to this office. As a consequence of his ability and enthusiasm it was decided to twice extend his initial appointment.

At the completion of almost two months work, it was apparent that, with the shortage of in house resources and the quantity of work to be performed, it would be sensible to employ Mr Fernando as a contractor. He consequently commenced work as a contractor on 20 April 1993. A number of other unemployed people operating under this Red Cross scheme have also been given work experience opportunities for various lengths of time, by the Land Information office.

(7) Mr Fernandos initial employment was brought about by the approach by the Red Cross Involve organisation, on his behalf, for work experience. His subsequent employment as a contractor was brought about by his demonstration of computing skills required in the section, enthusiasm for the type of work within the section and his ability to process a number of different tasks, with little training required. His employment has helped solve the problem of insufficient in house staffing resources for the work of the section.

736

MINISTER FOR THE ENVIRONMENT, LAND & PLANNING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1211

Environment, Land and Planning Portfolio -
Cultural Activities Contract

Mr Humphries. - asked the Minister for the Environment, Land and Planning

In relation to Gazette No 2, dated 19 January 1994,, and a purchase reference contained in it, No 8383, for contract assistance valued at $60,000 to Mr Roy Kenneth Forward of 29/18 Currie Crescent, Kingston, ACT, 2604

(1) For what services is the payment approved?
(2) Is this a new contract of employment for Mr Forward; if so, why?
(3) What is the duration of the "contract assistance"? .
(4) What performance criteria are being used to assess Mr Forwards performance?
(5) Has all of the $60,000 been expended, if not, why not?

Is any of the $60,000 payable as salary or wages; if so (a) what proportion and (b) over what time-frame?

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

(1) (a) Under broad direction and in accordance with Departmental policies, undertake high level cultural policy and project work, and represent the Department as necessary.

(b) Provide advice on and extend opportunities for cultural development by building links between ACT Government cultural activities and some or all of

- Commonwealth Cultural Institutions
-_ Tourist Industry
- Education Sector
- Major ACT Cultural Facilities (including _
proposed facilities)
- Planning Authorities
- Public Art Development

(2) No.
(3) For 12 months as from 28 July 1993.
(4) Assessment criteria include the following:

the extent to which better liaison is established
- between ACT Government Cultural bodies, Commonwealth
institutions and other ACT Government authorities;

- that project work and policy papers are submitted by the agreed dates and demonstrate a comprehensive analysis of the issues.

737

- the extent to which contributions are made to assist the Opportunities Committee of the Cultural Council and the Heritage Council in their planning and policy development work.

(5) No. The contract of employment is until the end of July 1994.

(6) Yes. (a) All of it. (b) For 12 months as from 28 July 1993.

738

MINISTER FOR HOUSING AND COMMUNITY SERVICES

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1213

Housing Rental Trust Account

MR CORNWELL: Asked the Minister for Housing and Community Services

In relation to the ACT Housing Trust Account as shown in the Treasurers Quarterly Financial Statements for the December 1993 quarter

(1) Why does recurrent expenditure total $42.7 million of an annual budget estimate of only $70 million.

(2) Why is capital expenditure only $8.4 million of an annual budget estimate of $30 million.

(3) Why are receipts only $39.6 million of an annual budget estimate of $93.6 million.

(4) Why are expenditures $39.2 million of an annual budget estimate of $95.1 million.

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

(1) The figures quoted are recurrent expenditure for the Housing and Community Services Bureau through the Consolidated Fund - not recurrent expenditure from the Consolidated Fund to the Housing Rental Trust Account. For the December 1993 quarter the Housing Rental Trust Account had received $4.7 million of an annual budget of $7.5 million in recurrent expenditure from the Consolidated Fund. These are grants from the Commonwealth and ACT Governments for tied recurrent programs and are on schedule with anticipated cashflows.

(2) For the December 1993 quarter the Housing Rental Trust Account had received $8.4 million of an annual budget of $30.0 million in capital expenditure from the Consolidated Fund. These are grants from the Commonwealth and ACT Governments for capital programs, including the repayment of capital debts owed to the Commonwealth. Capital grants are only provided after the application of all internally generated funds to capital programs. The bulk of capital grants will not be received until the Housing Rental Trust Account repays its debt to the Commonwealth at the end of the financial year.

(3) Receipts for the Housing Rental Trust Account are on target with anticipated cashflows, taking into consideration that the bulk of capital grants will not be received until repayments of $10.1 million interest and principal are made at the end of the financial year.

(4) Expenditures for the Housing Rental Trust Account are on target with anticipated cashflows, taking into consideration the repayment of debt at the end of the financial year.

739

12 April 1994

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1216

Heritage Places Register

Mr Cornwell - asked the minister for the Environment, Land and Planning - In relation to proposed listings upon the ACT Heritage Places Register, has consideration been given for some concessions or compensation, as an interim measure, for people who find themselves living by accident in heritage listed properties, to relocate or to effect repairs and, if not, why not?

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

The issue of concessions or compensation for people who are living in heritage areas has been discussed in national and even international forums.

As a general rule, Governments do not compensate residents for the impact of planning decisions.

Listing to the interim Heritage Places Register is part of the ordinary planning process in the ACT. It is not proposed to compensate residents of properties which are listed on the Heritage Places Register.

There is no evidence to suggest that there is any adverse impact on property values as a result of heritage listing. Moreover, heritage listing does not necessarily mean that properties cannot be modified or refurbished.

However, the Heritage Council is considering a range of options for assistance with conservation works for those in heritage listed areas and will provide me with further advice.

740

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1217

Heritage Places Register

Mr Cornwell - asked the Minister for the Environment, Land and Planning - In relation to proposed listings upon the ACT Heritage Places Register, has consideration been given, as an encouragement to preserve heritage properties, for rates or land tax deductions for such properties; if not, why not?

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

The Heritage Council is considering a range of options for assistance to those in heritage listed areas and will provide me with further advice.

When that advice is received, the Government will give its full consideration to the matters raised.

741

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 1218

Building Better Cities Agreement

Mr Cornwell - asked the Minister for the Environment, Land and Planning -

In relation to item 8.2 of the ACTs Building Better Cities Agreement -

(1) Has a joint report been prepared by Commonwealth/Territory Ministers for 1992-93 and if not, why not?

(2) If a report has been prepared can a copy be provided to interested persons, including myself?

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

(1) Yes.

(2) Yes. A copy has been provided to Mr Cornwell.

742

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1219

Heritage Places Register

Mr Cornwell - asked the Minister for the Environment; Land and Planning

In relation to the ACT interim Heritage Places Register (Forrest Housing Precinct), how can the Minister reconcile requiring other property owners to adhere to specific requirements,*eg "Demolition of original houses not permitted and that the demolition of original housing fabric only be allowed in the context of sympathetic alterations and additions" when this requirement has already been breached in respect of 69 Empire Circuit (Block 19, Section 3) when still under heritage listing?

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

The demolition of this property occurred in early 1989, well before the heritage provisions of the Land (Planning and Environment) Act 1991 were introduced.

Between early December 1988 and March 1989, the matter was the subject of much correspondence between the then ACT Heritage Committee, the Australian Heritage Commission and government departments.

After strong reservations about the proposal which would substantially alter the nature of the original 1920s building, the development was modified, with the agreement of the lessee, to take into account the views of both heritage bodies. Lacking heritage legislation to support it, the Heritage Committee was only able to provide advice on these proposals.
This project provides a compelling argument for the implementation of heritage legislation and.the formation of a statutory body, the Heritage Council of the ACT, to advise me-on heritage issues.

743

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1220

Housing Trust - Rent Relief Program

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

(1) Do tenants in receipt of rent relief sign lease agreements with their private landlords.

(2) What period of time does the ACT Housing Trust allow people in (1) to take up an offer of Trust accommodation

(3) In the event there is still a period of time for the private lease to run in (2), does the Trust pay the rent relief component for this period to either the landlord or the tenant.

(4) Is the tenant then obliged to pay the balance of the rent for the unexpired lease period on the private accommodation; if yes; what incentive is there for a tenant to move from private accommodation to Trust accommodation.
(5) How much money has the Trust paid to cover unexpired lease periods for rent relief tenants in (3) for (a) 1991; (b) 1992 and (c) 1993.

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

(1) Before a client is approved for rent relief they are required to provide a copy of the lease or an equivalent document signed by the landlord.

(2) Persons on the Housing Trusts waiting list are required to make a decision on an offer of accommodation within 48 hours.

(3) No. However, a loan of up to $600 under the Rent Relief Program can be utilised if the private tenancy agreement requires that the tenant continue to pay rent until the landlord has a new tenant for the property.

Alternatively, they can choose to defer their allocation of a Housing Trust property. The client remains on the normal waiting list until an agreed date usually the expiry of their private lease.

(4) Yes, depending on the terms of the lease agreement. The incentive for the tenant to move is to obtain the benefits of public rental housing as quickly as possible.

(5) See (3) above.

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1221

Macquarie Swimming Pool

Mr Cornwell asked the Minister for the Environment, Land and Planning - In relation to the Macquarie Pool

(1) Who owns the lease.
(2) What are the terms of the lease.
(3) Who runs the facility.
(4) Are there any plans to vary either the ownership of the lease or the management.

(5) Have there been any complaints or problems with the facility which would result in a recent inspection by a consultant from the Ministers Department and a Government MLA.

(6) If there have not been any complaints or problems, why did such an inspection take place.

Mr Wood - the answers to the Members questions are as follows;

(1) Mr & Mrs Ron and Beryl Watkins.
(2) The lease was granted under the provisions of the City Area Leases Act on 23 March 1988. The lease commenced on that date and will terminate 1 October 2078. At the moment, rent payable under the lease is $40,000 per annum. Generally speaking the other terms and conditions in the lease are quite standard for a lease of this kind.
(3) The lessees.
(4) The Government is unaware of any plans to vary the ownership of the lease or its management.
(5) No.
(6) The Government is unaware of any such inspection, unless the Member is referring to an inspection made in June 1993 by members of my Department. The inspection was made following an offer from the then Receiver to sell the Pool to the Government.

745

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No. 1225

Government Service - Outside Work

Mr CORNWELL - Asked the Chief Minister upon notice on 3 March 1994:

(1) How many ACT Administration staff operate a business apart from their public service job.

(2) Are there rules governing such activity and; if so, what are they; if not, why not.

MS FOLLETT - in responding to the Members question, it- is necessary to address the second part, before the first part. The answer therefore to the Members question is as follows:

(1) and (2) A public servant is not permitted to perform work outside the Service unless permission is obtained from the Secretary or his/her delegate. This covers all forms of work whether holding an office in a State or municipal public corporation or any business, professional or otherwise. However, an officer can be a member or shareholder of any company or society of persons registered under any law in any State or elsewhere.

In addition, officers of the Senior Executive Service, statutory office holders and senior staff of statutory authorities are required to complete a Statement of Registration of Personal, Financial and Business Interests. This proforma includes specific instructions and rules governing outside interests and areas of possible conflict of interest.

There is no one central record of either the number of approvals that have been issued or the nature of the businesses being undertaken. It has therefore been necessary to seek responses from individual agencies.

I am advised that agencies have given approval for 123 people to work in another job.

746

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1226

Belconnen Cinema Complex

Mr Stevenson asked the Minister for the Environment, Land and Planning - In relation to the proposed cinema complex development in Belconnen -

(1) Will the 50 or more leases due for renewal in the Westfield Shopping Centre be affected.

(2) Is the Minister aware whether Westfields ongoing costs will flow on to remaining tenants.

(3) Given the proposed location of the complex, is it necessary that the management of the Mall and the complex be the same.
(4) Have other cinema groups been consulted in the matter.
(5) Have other cinema groups been given the opportunity to tender.
(6) Is there any provision for community facilities within the complex.
(7) What land and lease arrangements will be entered into in regard to the proposed cinema complex.
(8) What community consultation has occurred in the decision making process.
(9) What will be the cost of infrastructure required as a result of developing the complex.

Mr Wood - the answers to the Members questions are as follows;
(1) I am unaware of Westfields arrangements with its sub-lessees.
(2) I am unaware of Westfields arrangements with its sub-lessees.

(3) Yes.
(4) I understand that Westfield has consulted a number of prominent cinema operators.
(5) I am unaware whether other cinema groups tendered for the project.

747

(6) The present lease requires Westfield to provide a child-care facility, which is already there. This facility will continue to operate when the cinema complex, itself a focal point for the Belconnen community, is constructed.

(7) The existing leases held by Westfield provide for the cinema uses. Westfield has applied for some additional land to enable the proposed cinema complex to be linked to the Mall. Negotiations are close to finality with the intention of commencing work on the complex towards the middle of this year.

(8) I am unaware what community consultation was undertaken by Westfield however, the proposal to establish cinemas in Belconnen Mall has been widely canvassed in the local media. The establishment of the cinemas is provided for in the Territory Plan which itself was subject to exhaustive community consultation.

(9) The cinema complex will not require infrastructure expenditure by the Government. It will be integrated into the existing complex in accordance with design and siting requirements of the ACT Planning Authority. The proposed manner of construction of the cinema complex and traffic studies indicate that the existing infrastructure is both adequate and appropriate.

748

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1227

Multicultural Australia Day Festival

Mr Westende - asked the-Minister for the Arts - In relation to the cultural and economic aspects of the Multicultural Australia Day Festival which is to be held on the weekend closest to the Australia Day festivities, with some events being duplicated on 26 January, during the Australia Day celebrations

(1) Could the two events be integrated under the one umbrella of the Australia Day organisation; if not, why not.

(2) Is the funding for the Multicultural Australia Day Festival andthe Australia Day Celebrations provided by your Department; if not, what Department provides funding for these two events.

(3) How much money is budgeted for the various festivals and what is the break up of those moneys.

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

(1) Australia Day celebrations in the ACT should be integrated, popular and reflect the evolving nature of our community. My department is currently involved in discussions with all the organisations associated with the staging of Australia Day events to endeavour to achieve that objective.

(2) For 1994 Australia Day in the National Capital Incorporated received a grant of $30,000, while the Ethnic Communities Council of the ACT Incorporated received a grant of $15,000 for the Multicultural Australia Day Festival. However, both organisations have been advised that I expect strong support for the process under discussion, and I have emphasised that future funding will be dependent on constructive outcomes.

(3) Most festivals and events of this type apply for funding. There is a budget allocation part of which covers both Community Arts and Festive Events. All applications are considered on merit and there are many high-quality applications received for funding each year. It is policy to balance funding recommendations against the principles and priorities of the Cultural Development Grant Program and during this process budgets may be adjusted to produce the best possible cultural outcomes.

$641,500 was allocated for festivals during the 1993-94 Financial Year, $370,770 of which was allocated to the Canberra Festival and $22,000 to the Science Festival. The closing date to lodge applications for the final grant round for 1994 was 8 March 1994. These applications are still being assessed.

749

MINISTER FOR HOUSING AND COMMUNITY SERVICES
ACT LEGISLATIVE ASSEMBLY

QUESTION ON NOTICE No 1229

Housing Trust - Tenant Accounts

MR CORNWELL- asked the Minister for Housing and Community Services - In relation to account numbers used by the ACT Housing Trust:

(1) Does the Trust operate an account for each property or each tenant.

(2) If the Trust operates an account for each tenant, why.

(3) Would not the attachment of an account number to a premises make it easier and faster to flag non payment of rent and to track maintenance costs etc per building and building type.

(4) What would be involved in changing account attachment from the tenant to the premises and is ISIP capable of such a change.

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

(1) The Trust operates an account for each tenant

(2) The Trust operates an account for each tenant so that a record of financial transactions and account balance for each client is available.

(3) No. The Housing Trust computer system, ISIP, is designed to maintain accurate and up to date information on the status of tenancy accounts and maintenance costs. Attaching accounts to premises would not make account management easier or faster.

(4) ISIP is capable of changing the account attachment from the tenant to the property. This would involve rewriting parts of the system. As no useful purpose would be achieved by such a change, no work has been done to detail the exact nature of the changes that would be required.

750

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1230

Housing Trust Properties - Flat Complexes

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

(1) Has the pilot program, as announced in the 1993-94 Budget, to improve the social and building environment of ACT Housing Trust flat complexes yet commenced; and if not, why not.

(2) What form will this pilot program take and for how long is it expected to run.

(3) Will the results of the pilot program be made available to interested parties, including myself.

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

(1) Yes.

(2) Refer to Question No. 1165.

(3) The outcome of the pilot program will be released upon completion.

751

MINISTER FOR HOUSING AND COMMUNITY SERVICES
QUESTION ON NOTICE NO. 1231

Housing Trust Properties - Rates

MR CORNWELL: Asked the Minister for Housing and Community Services

(1) Is it a fact that (a) the ACT Housing Trust pays rates upon its properties and (b) Trust tenants do not pay rates.

(2) What was the value of rates paid by the Trust in (a) 1991-92; (b) 1992-93 and (c) 1993-94.

(3) Approximately how much per annum is each ACT ratepayer subsidising the Trust for its tenants use of municipal services.-

(4) Are the estimated 15% of Trust tenants not on a rental rebate exempt from rates and if so, why and how much approximately does this represent in rates foregone.

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

(1) (a) Yes (b) Housing Trust tenants, like tenants of private sector landlords are not responsible for the payment of rates. Rates are levied on the owner or lease holder of each property.

(2) (a) $5,045,541
(b) $5,386,369
(c) the estimated expenditure is $6,057,000

(3) Nil. ACT taxpayers do not specifically subsidise the Housing Trust for tenant use of municipal services. The Housing Trust pays for the rates from payments received under the Commonwealth State Housing Agreement and the revenue received from rents.

(4) See (1) above.

752

MINISTER FOR HOUSING AND COMMUNITY SERVICES

QUESTION ON NOTICE NO. 1232

Housing Trust Properties - Rates

MR CORNWELL: Asked the Minister for Housing and Community Services - in relation to his reply to question on notice no. 605 -

(1) Approximately how much money did each ACT ratepayer subsidise the ACT Housing Trust tenants in 1991-92 in respect of the $5,045,511 (water and sewerage) and $291,566 (excess water) charges paid by the Trust.

(2) Did the above payments include water and sewerage and excess water charges in respect of the estimated 15% of non-rebated Trust tenants and if so, why

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

(1)(2) ACT taxpayers do not specifically subsidise the Housing Trust for tenant use of municipal services. The Housing Trust pays for the rates from payments received under the Commonwealth State Housing Agreement and the revenue received from rents. Market rents, which include a component for rates, are applied to all properties. The principle is exactly the same as in the private rental market where landlords, not tenants, pay rates. Housing Trust tenants are required to pay an income related rent if they are unable to afford the full rent.

753

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1233

Housing Trust Properties - Subleasing

MR CORNWELL - Asked the Minister for Housing and Community Services - In relation to your reply to question on notice No 611, namely that ACT Housing Trust tenants can in their absence sublet their residence under certain conditions -

(1) What arrangements are made to levy tax upon rented premises.

(2) How much land tax has been collected in these circumstances since land tax was introduced.
(3) If no land tax is levied upon Trust tenants subletting premises, why not.

Mr Connolly - the answer to the Members question is as follows -
(1) None - see answer to (3)
(2) None - see answer to (3)
(3) Land tax is payable only by property owners on residential property, which they do not occupy as their principal residence. Public tenants are not liable for this tax whether or not they sublet. The same is true of private tenants.

754