DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

19 May 1994

Thursday, 19 May 1994

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

PAPER

MR STEVENSON: Madam Speaker, I seek leave to present a petition from interstate petitioners.

Leave granted.

MR STEVENSON: I present an out-of-order petition from 54 petitioners from Victoria requesting that the Assembly ban the sale, hire and distribution of X-rated videos from the ACT.

STAMP DUTIES AND TAXES (AMENDMENT) BILL 1994

MS FOLLETT (Chief Minister and Treasurer) (10.31): Madam Speaker, I present the Stamp Duties and Taxes (Amendment) Bill 1994.

Title read by Clerk.

MS FOLLETT: I move:

That this Bill be agreed to in principle.

This Bill introduces amendments to the Stamp Duties and Taxes Act 1987 to facilitate the transfer of shares on the Australian Stock Exchange electronically. The system developed by the ASX, in consultation with all States and Territories, is called CHESS, an acronym for the clearing house electronic subregister system. CHESS will be available to ASX member brokers and domestic custodians that satisfy ASX criteria.

In November 1989 the Australian Securities Commission took an initiative to establish a high-level clearing and settlement committee to coordinate reform of Australia's equities settlement system. The initiative was seen to be an important micro-economic reform in the national interest. In May 1990, the clearing and settlement steering committee agreed to the adoption of the CHESS proposal for the upgrading of equity settlement and transfer processing in Australia. Equity settlement in Australia is currently automated only to the extent of the ASX broker-to-broker settlement system, which has significant limitations.

Securities markets are rapidly becoming internationalised, and those which are not competitive will face the prospect of loss of participation by institutions. No country, including Australia, can isolate itself from these global market issues. The Australian market is heavily reliant on the participation of domestic and international institutions and therefore vulnerable to loss of business to competing markets. Australia must meet the challenge of competition by having a securities market that matches or exceeds the standards called for by industry participants. CHESS is a means to allow the securities industry to achieve this objective.

The achievement of reform of Australia's settlement system requires extensive changes in the laws relating to securities and associated matters, including stamp duty. Fortunately, the strong support for improved clearing and settlement by regulatory authorities and the collective concern of governments to promote micro-economic reform provide a strong impetus for initiatives for legislative change in this area. This Bill will provide the mechanism for share trading in the Territory, and, indeed, in Australia, to become more efficient and competitive with overseas markets.

Provisions in the Act currently require that share transfer documents are lodged with the Commissioner for ACT Revenue and that payment of the duty is represented by an impressed stamp on the share transfer document. This focus on lodgment of transfer forms is inappropriate, given the emphasis on paperless transfers that is vital to CHESS operations. This Bill introduces amendments to remove the requirement for stamping of transfer forms for CHESS transactions and to enable CHESS participants to pay stamp duty by way of a monthly return. The introduction of CHESS has also necessitated a change in the method of determining liability for duty between jurisdictions. Currently, duty is payable to the State or Territory in which the share register is located. This is inappropriate to shares transacted on CHESS which are deemed to be on the CHESS subregister located in New South Wales. A new framework has been created to more equitably distribute duty between jurisdictions.

The Bill also addresses a serious anomaly in the ACT. Duty is currently payable in the ACT only in respect of the transfer of legal ownership of marketable securities. It is possible, however, to acquire an equitable interest in marketable securities without a corresponding change in legal title. Other jurisdictions, including New South Wales, impose a liability for duty on the transfer of equitable interests in securities. In this Bill the Government is seeking to close off a potential avenue for tax avoidance by creating a liability to duty on the change in beneficial ownership of marketable securities.

This Bill largely involves introducing uniform provisions with other jurisdictions to allow the ASX to become more efficient. The detailed provisions are explained in the explanatory memorandum. The Bill has been developed in consultation with the Australian Stock Exchange and all other jurisdictions to ensure that, where possible, uniformity in legislation has been achieved. Given the nature of these amendments, it is necessary for the amendments to come into operation across Australia on the same day. The proposed date for introduction of the CHESS system and these amendments is 1 September 1994. I commend the Bill to the Assembly and present the explanatory memorandum for the Bill.

Debate (on motion by Mr Kaine) adjourned.

STATE BANK OF SOUTH AUSTRALIA (TRANSFER OF UNDERTAKING) BILL 1994

MS FOLLETT (Chief Minister and Treasurer) (10.41): I present the State Bank of South Australia (Transfer of Undertaking) Bill 1994.

Title read by Clerk.

MS FOLLETT: I move:

That this Bill be agreed to in principle.

The State Bank of South Australia (Transfer of Undertaking) Bill 1994 is being introduced at the request of the South Australian Government as a complementary measure to legislation in that State. This Bill will facilitate the restructuring of the State Bank of South Australia. The State Bank is a statutory corporation formed under the State Bank of South Australia Act 1983 and conducts banking business in South Australia and also in the other States and Territories.

Members will recall that the bank's financial difficulties in 1991 necessitated the provision of a rescue package by the South Australian Government. In February 1993, the Prime Minister announced that the Commonwealth was prepared to provide special financial assistance to South Australia to help the State in reducing its current debt burden. In recognition of the Commonwealth's decision, the South Australian Premier agreed to recommend the sale of the State Bank as quickly as practicable consistent with achieving a fair market price.

To facilitate this sale, the South Australian Government has decided to corporatise the State Bank by transferring its banking business to a public company to be incorporated under the Corporations Law as the Bank of South Australia Ltd. This public company will initially be owned by the South Australian Government. At the same time, the State Bank of South Australia will change its name to the South Australian Asset Management Corporation. It will cease to conduct its banking business, but will continue in existence for a number of years in order to realise its remaining assets and pay off its outstanding liabilities.

A Bill to facilitate the corporatisation of the State Bank of South Australia was recently introduced into the South Australian Parliament. That Bill provides for the transfer of assets and liabilities from the State Bank and its subsidiaries to the Bank of South Australia Ltd. The Bill also refers power over the banking business to the Commonwealth so that the bank can come under the prudential supervision of the Reserve Bank as from 1 July 1994.

The State Bank's business is principally carried on in South Australia, where it has a substantial branch network. So far as the ACT is concerned, there are no branches in operation conducting banking business. There are therefore no assets or liabilities which relate to premises, plant or equipment. The only State Bank business in the ACT relates to advances to corporate customers secured by mortgage debentures and other forms of security over the borrowed assets. The Territory does not impose stamp duty on these types of transactions. The corporatisation of the State Bank will not, therefore, have any effect on the revenues of the ACT.

As I have said, the State Bank of South Australia (Transfer of Undertaking) Bill is complementary to the South Australian Bill. Its objective is to facilitate the legal transfer of assets and liabilities situated in the Territory. The beneficial ownership of these assets and liabilities will remain with the South Australian Government during the course of the corporatisation process. Legislation of this kind creates considerable savings of time and effort for bank customers and staff as each individual banking arrangement, contract and mortgage will not need to be tediously renegotiated. By passing this legislation the ACT will be assisting not only these bank customers but also the South Australian Government, at no cost to ACT taxpayers.

Madam Speaker, it is also understood that legislation similar in content to this Bill is being proposed in other States and in the Northern Territory. I commend the Bill to the Assembly, and I present the explanatory memorandum to the Bill.

Debate (on motion by Mr Kaine) adjourned.

ELECTRICITY (AMENDMENT) BILL 1994

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (10.41): Madam Speaker, I present the Electricity (Amendment) Bill 1994.

Title read by Clerk.

MR LAMONT: I move:

That this Bill be agreed to in principle.

This Bill amends the Electricity Act 1971 to create an Electrical Licensing Board and to bring electrical licensing arrangements in the ACT into line with national developments. The Assembly will be aware that the heads of government have reached agreement to make the regulation of all trades, including the electrical trade, more consistent across Australia. Mutual recognition legislation has been passed nationally and in the ACT to support this.

There has been agreement at national level by Ministers for labour that a class of restricted electrical licence should be introduced for tradespersons who are not electricians but who need to do limited electrical work as part of their trade and who have also undergone appropriate training to permit them safely to carry out this incidental electrical work. An example of this might be a plumber called upon to repair a hot-water service. If he or she has had the appropriate training and also holds the restricted electrical licence provided for by this amendment, they will be able to disconnect the electrical wiring from the hot-water appliance and then reconnect it after the plumbing work has been completed. However, a plumber holding a restricted electrical licence will not be permitted to carry out electrical wiring work such as the initial connection of electricity to a new hot-water service. The overall objective is that, within the limits of the additional training provided to them, members of trades other than the electrical trade will be able efficiently and safely to undertake incidental electrical wiring work. This will support micro-economic reform and will hold down costs across Australia, and to the community in the ACT.

The Bill also provides for the establishment of an Electrical Licensing Board. At present the ACT Electricity and Water Authority administers electrical licensing and inspects electrical wiring work carried out by electrical contractors. A problem with this arrangement is that unions and industry have had no clear role in electrical licensing and discipline, where this is necessary, and have had no legal right to be involved in the development of policy concerning electrical regulations.

In the course of developing this Bill, the Government ensured that there was extensive consultation with electrical contactors and the unions and with persons responsible for trades education. Those involved in the electricity industry pressed for an electrical licensing board, or its equivalent, similar to those provided by other jurisdictions in Australia. The Government agreed, and this Bill provides for the establishment of an Electrical Licensing Board. It will have responsibility for electrical licensing and for any necessary disciplinary action in respect of electrical tradespersons. The board will consist of five members, who will be appointed by the Minister for Urban Services. It will include a representative of the union, the electrical contractors, the Canberra Institute of Technology and ACTEW, and one other person, whom I intend to be a consumer representative. Support staff for the board will be provided by the ACT Electricity and Water Authority. Costs will be modest and will be absorbed by ACTEW. The Bill provides a right to review by the Administrative Appeals Tribunal of any licensing or disciplinary decision.

In addition to the matters I have discussed, there are a number of other changes made by the Bill that are of a machinery nature or that tidy up some minor difficulties of the previous legislation. An example is a provision to ensure that persons holding a licence maintain $1m worth of insurance cover against claims for personal injury and property damage arising out of the work carried out by or on behalf of the licence holder. The Bill also amends the Electricity Act 1971 to make it clear that, consistent with the Mutual Recognition Act, a person holding the appropriate licence in a State or another Territory is entitled to be licensed or to hold a permit as relevant under the Electricity Act 1971 in the ACT.

The Bill and its provisions for the creation of an Electrical Licensing Board are clear evidence of this Government's commitment to consultation with unions, employers and small business. The principles evident in the Bill have been discussed thoroughly with this constituency, and I am advised that it is consistent with their wishes and represents an agreed position across the industry. The Bill brings the ACT into line with other States. It will hold down cost to the community and add to economic efficiency. In conclusion, this Bill is in the interests of the community, electricians, other tradespersons and electrical contractors. I commend it to the Assembly and present the explanatory memorandum.

Debate (on motion by Mr De Domenico) adjourned.

BOOKMAKERS (AMENDMENT) BILL 1994

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (10.46): Madam Speaker, I present the Bookmakers (Amendment) Bill 1994.

Title read by Clerk.

MR LAMONT: I move:

That this Bill be agreed to in principle.

The Bookmakers (Amendment) Bill is the first of two Bills I am introducing today to enable licensed bookmakers to accept bets by telephone whilst fielding on-course. In February this year, the racing Ministers agreed that all States and Territories should endeavour to have in place legislation to provide for on-course telephone betting by 1 July 1994. South Australia and Western Australia have already introduced this service to punters.

The ACT racing industry supports the introduction of these legislative amendments, which are a necessary response to competition provided by casinos and other initiatives in the licensed clubs industry. They will also expand the service available to punters in the Territory. The legislation is expected to enable ACT bookmakers to compete more effectively for the leisure dollar and protect ACT government revenue. Introduction of this legislation must coincide with similar legislation to be introduced in New South Wales, as the industry is firmly of the view that any custom lost to interstate bookmakers with telephone betting services would be difficult to recover.

In brief, the Bill provides that bookmakers shall not be able to accept a telephone bet unless it is equal to or greater than the prescribed amount or the bookmaker's risk is an amount greater than or equal to the prescribed amount. Telephone betting will be conducted in accordance with prescribed procedures and recorded on prescribed equipment. The Chief Minister, as the responsible Minister, will be able to make regulations prescribing minimum bets and approved equipment.

A consultative group comprising representatives from the ACT Bookmakers Association, each of the racing clubs and other related agencies, including ACT Treasury, has been established to advise me on matters such as the procedures to be covered in the regulations. In addition, persons will be appointed to maintain the equipment and penalties will be imposed where a person tampers or interferes with the equipment. I commend the Bill to the Assembly and present the explanatory memorandum.

Debate (on motion by Mr De Domenico) adjourned.

GAMING AND BETTING (AMENDMENT) BILL 1994

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (10.48): Madam Speaker, I present the Gaming and Betting (Amendment) Bill 1994.

Title read by Clerk.

MR LAMONT: I move:

That this Bill be agreed to in principle.

As a consequence of the amendments to the Bookmakers Act 1985, changes are necessary to the Gaming and Betting Act 1906 (NSW). The amendments to the Gaming and Betting Act will allow a person to place a bet by telephone and will allow bookmakers to advertise their telephone betting services. The passage of these two Bills will enable local bookmakers to compete against other forms of gambling and against telephone bookmakers from interstate. I commend the Bill to the house and present the explanatory memorandum.

Debate (on motion by Mr De Domenico) adjourned.

SUBSTITUTE PARENT AGREEMENTS BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.49): Madam Speaker, I present the Substitute Parent Agreements Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

On 16 December last year I tabled a discussion paper entitled "Surrogacy Agreements in the ACT". This paper included an exposure draft of proposed legislation on surrogacy and was released for community comment. I am now pleased to table this Bill, which is the result of the extensive consultation we have had with both the community and government agencies on this matter.

The Bill is called the Substitute Parent Agreements Bill 1994, and I will also be tabling the Substitute Parent Agreements (Consequential Amendments) Bill 1994 to make necessary amendments to other legislation in relation to this Bill. The name of the Bill and the agreements it covers have been changed for two reasons. The first reason is that the term "surrogacy", which is based on the concept of the birth mother being a surrogate mother, is a misnomer as the woman giving birth is legally, as well as gestationally, the mother of the child. The second reason is to indicate clearly that we are talking about an agreement to substitute one set of parents for another, thus bringing into focus the issues of the legal parenthood of the child concerned, the welfare of that child, and the use that is made of the very real physical and emotional relationship that a woman has with the child to whom she gives birth.

There is no doubt about the distress and loss felt by those who cannot conceive a child. The Government recognises that resources should be applied to the development of means for preventing and curing infertility. However, substitute parent agreements are neither a treatment of nor a cure for infertility. They are a means of supplying someone with a child in a way that involves substantial impingement on the lives of others. We believe that substitute parent agreements thus raise serious matters and that these agreements should not be endorsed by the Government.

The Bill, therefore, is based on the Government's belief that substitute parent agreements should not be enforceable at law; commercial agreements should be illegal; it should be illegal to advertise in relation to substitute parent agreements, to procure a person to enter into an agreement with a third person, and to facilitate pregnancy for the purposes of an agreement. In any action relating to the Bill, the law would give paramount consideration to the welfare of the child involved.

Non-commercial substitute parent agreements, sometimes called altruistic surrogacy, is the term used to describe the situation where there is no formal contract or any special payment or fee to the birth mother. It is usually an arrangement between very close friends or family members. Commercial substitute parent agreements are businesslike transactions where a fee or other sort of reward is to be given for the gestation service above and beyond the expenses of gestating and bearing the child and surrendering him or her at birth. There is usually a formal agreement which settles the financial arrangements, for example, as to periodic payments for ancillary expenses.

The agreement often stipulates behaviour the birth mother agrees to undertake, such as undergoing tests, or having an abortion if the foetus is defective, or behaviour that she agrees to avoid, such as smoking and drinking. The commissioning couple and the birth mother are very often strangers to each other and usually continue to be so. In some cases, they never meet at all. Either sort of arrangement is similar to all commercial agreements for the production of goods, with the sole concern being the state of the goods which are to change hands. The child is the commodity which, for a price, is exchanged. The difference is that commercial agreements involve making a business and a profit out of the perceived needs of others.

I wish to make it quite clear that we do not intend to make non-commercial substitute parent agreements illegal, nor will criminal charges be laid against those who are involved in them. This Bill will not outlaw extended families. We are not talking about the taking in or fostering of children as part of a family to give them love and care, so long as this is not for the purposes of depriving them of their true parentage other than through currently available legal procedures.

What we are talking about is the agreement by a woman that the child she bears will not be hers, that she will divest herself of all rights to the status of mother of the child she is going to bear. Where a woman agrees to bear a child for another family member, this will not be an offence. Let me give an example of a woman who bears a child for her sister. This is not an offence; but she knows that, if she decides to keep the child, the sister cannot have the contract upheld by a court. Similarly, if the sister does not want to take the child - say it has an impairment - then she cannot be legally forced to take the child. The courts must uphold the welfare of the child in deciding who has custody and care.

If the birth mother relinquishes the child, under adoption law she can do so only after the birth, and the prohibition of arranged adoption must be kept in mind. However, she can specifically name a relative as the person to whom the child is to be relinquished. There must be an application to the court through the ordinary adoption service. This makes substitute parent agreements very difficult to make, and there are other things the sisters will not be able to do under the Bill. For example, they will not be able to seek the services of a doctor to facilitate pregnancy. You might ask: Why not? Why cannot your caring doctor apply professional skills to help worthy couples who long for a child to have one through a substitute parent agreement? There is a danger that allowing such a service may result in the marketing of such agreements as medical treatment for infertility when in reality they are making children commodities.

In short, we believe that it is not proper or ethical for the state to be involved in decisions as to parentage or custody of a child based on a contract between individuals to foster such agreements. The state is the final protector of the welfare of children and does not alter parenthood according to private agreements. We believe that, if the state were to approve such agreements, it could be seen to be determining the very nature of motherhood and labelling women adequate or inadequate as mothers; supporting the principle of demand for, and supply of, goods to govern the establishment of parenthood; placing undue emphasis on production of a child of acceptable attributes; and possibly creating legal action for breach of contract based on personal behaviour of the birth mother. We do not want such developments to occur.

I will now take the individual provisions in the Bills and point out the changes we have made from the original exposure draft as a result of public consultation. As recommended by the health and welfare Ministers and accepted by all those who responded to the discussion paper we released, substitute parent agreements are void and unenforceable. This is provided for in clause 9 of the Bill. It was also generally accepted that the interests of the child are to be the paramount concern in any legal action arising in relation to a substitute parent agreement. This is provided for in clause 10 of the Bill.

Some commentators questioned the need to have such a clause; but there may be applications for declarations under the Bill, or for costs, or even attempts to test the provisions of the Bill. In these cases, it is considered worth while retaining the provision as a statement of general principle.

The Bill creates several offences. These provisions have been tidied up and streamlined to make them less intrusive into private family relationships and more acceptable to the community. For all agreements, whether commercial or non-commercial, it is an offence to provide technical or professional services to a woman to facilitate pregnancy for the purposes of a substitute parent agreement; to procure a person to enter into an agreement with a third person; or to advertise in relation to an agreement.

We have modified clause 9 of the exposure draft legislation, which is now clause 8 of the Bill, to make it clear that, contrary to the fears expressed by some, we do not intend to prohibit professionals such as lawyers and doctors from giving general information and advice on substitute parent agreements, such as information on this or other legislation, or the medical implications or legal implications of entering into agreements. We have made the penalty for advertising in respect of a non-commercial agreement less than it is for advertising in respect of a commercial agreement. There was also no objection in the submissions to the provision that a person may be liable for an offence where the action occurs in the ACT, regardless of the whereabouts of the person at the time, or if the person is normally a resident of the ACT, irrespective of where the action occurs. This Bill, then, is intended to give effect to the Government's policy on substitute parent agreements, with due regard to the interests of all who may have an interest in them. I present this explanatory memorandum to the Bill.

Debate (on motion by Mrs Carnell) adjourned.

SUBSTITUTE PARENT AGREEMENTS
(CONSEQUENTIAL AMENDMENTS) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.57): Madam Speaker, I present the Substitute Parent Agreements (Consequential Amendments) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

This Bill is consequent on the passage of the Substitute Parent Agreements Bill 1994, which I have just presented. It does two things. It provides for lodgment of information in respect of a child born as a result of a substitute parent agreement with the Registrar-General, and withdrawal of licences to practise reproductive medicine from medical organisations which participate in substitute parent agreements.

The exposure draft legislation required the Director of Family Services to furnish the Registrar-General with the correct details of a child found to have been born as the result of a substitute parent agreement. It was proposed to amend the Registration of Births, Deaths and Marriages Act 1963 to provide for this. We were not comfortable with this proposed provision and, after consultation with the Registrar-General and the Director of Family Services, were satisfied that the preferred way of dealing with this issue was to amend the Children's Services Act 1987.

The wording was changed to remove the possibility that commissioning parents would be registered as those who were to be taken as the parents of the child. The intention of this legislation is that the birth certificate of a child is to contain the correct details as to the legal parentage of a child. Only one set of parents is to be entered in the register, and that is the parents as decreed by law. Normally, the birth mother is deemed to be the legal mother of the child and her legal or de facto spouse is deemed to be the father.

The Substitute Parent Agreements (Consequential Amendments) Bill provides for the withdrawal of licences or approval to practise reproductive medicine from medical organisations which participate in facilitating substitute parent agreements. There was no objection to this provision, and it has been retained as is. Amendments to the various registration Acts for health professionals appeared in the exposure draft Surrogacy Agreements (Consequential Amendments) Bill in clauses 3 to 7 and clause 10. These provisions made giving or offering to give advice or services to facilitate substitute agreements professional misconduct by those registered under the Acts. We have removed these provisions from the Substitute Parent Agreements (Consequential Amendments) Bill, as a result of consultation.

Responses from several bodies, including the Law Society and the joint registration boards, argued that the proposed provisions in these registration Acts were not appropriate. The registration boards pointed out that there is an ongoing process of amending the registration Acts, which involves deleting references to professional misconduct. The new approach will nominate specific matters that will attract disciplinary action, including improper or unethical conduct, so the registration boards are able to take action in appropriate cases. We are satisfied that this approach will have the advantage of applying to all health professionals, leaving the ultimate question of improper or unethical conduct to the boards, who argue that it is their responsibility anyway, acceptance by the boards and health professionals, and consistency with other States.

We think we have taken a balanced and sensible approach to substitute parent agreements that considers the rights of all parties involved and properly discharges the Government's and the state's responsibilities in respect of children. I present the explanatory memorandum to the Bill.

Debate (on motion by Mrs Carnell) adjourned.

CONSERVATION, HERITAGE AND ENVIRONMENT - STANDING COMMITTEE
Report on Smoke-free Areas (Enclosed Public Places) Bill 1993

MR MOORE (11.01): Pursuant to order, I present the report of the Standing Committee on Conservation, Heritage and Environment on the Smoke-free Areas (Enclosed Public Places) Bill 1993, entitled *Clearing the Air*, together with a dissenting report and extracts from the minutes of proceedings. I move:

That the report be noted.

Mr Deputy Speaker, simple solutions can be effective. Simplistic ones do not work. This piece of legislation was passed in principle by this Assembly. Therefore, the role of the Conservation, Heritage and Environment Committee was to follow the in-principle concept of improving public health and ensuring a minimisation of harm associated with passive smoking. That is what we attempted to do, and I believe that that is what we have achieved.

At the outset I would like to emphasise the goodwill on the part of all members of the committee. I would like to emphasise the work the members of the committee did to try to ensure the best possible report. I acknowledge the dissenting report of Ms Ellis, and I also would like to thank her for the incredible effort that she made to ensure the best possible report, even to the extent of assisting with the parts that she disagreed with. I think that says a great deal about her willingness to participate and to try to come to a sensible and rational conclusion. I would like to thank Mr Westende for his participation and enthusiasm. While I am in the thanking area, Mr Deputy Speaker, I also would like to thank the secretary of the committee, Mr Richard Cavanagh, who often worked long hours doing tedious work. He had a particularly difficult job, like all of us, in trying to discern, through the evidence, what was true, what was false, what was exaggerated and what was reasonable. A great deal of evidence fitted those categories. I also thank those who appeared before our committee. I note that in the chamber today there are members of the ACT Alcohol and Drug Service, as well as members of ASH, the Australian Hotels Association and the public who spent a great deal of time and effort to ensure that the committee was well informed.

I would like, first of all, Mr Deputy Speaker, to deal with the factors that influenced me most. The most important of those was the false evidence and the false impression that was given to the committee. The first of those was the impression that there had been similar smoke-free legislation enacted elsewhere right around the world. That simply is not the case. Legislation that has been enacted elsewhere around the world fits in with the sort of experience that we had when we were in New Zealand. The smoke-free legislation enacted in New Zealand provides for a 50 per cent smoke-free area in restaurants. It goes further than that; but, largely, that is the impact of that legislation. Similarly, in the United States, that is the general way that supposedly smoke-free legislation has been enacted. There are places that have gone further than that, but the vast majority fit into that category. Mr Deputy Speaker, the recommendations that we have made go well beyond that, and go well beyond the areas that the original Wayne Berry legislation was prepared to grapple with.

Mr Berry: This is gutless.

Mrs Carnell: No; it is sensible.

MR DEPUTY SPEAKER: Order! I ask members not to interject while the chairman presents this report. You will have the opportunity to comment later on in the debate.

MR MOORE: Thank you, Mr Deputy Speaker. The second false impression that was given, particularly by Mr Berry, but by others as well, was that Australian Standard 1668.2 was a comfort standard, not a health standard. That patently is false. In pursuing that issue, the committee was provided with an exhibit, exhibit 21, by Mr Ted West, who was the chair of the committee that established Australian Standard 1668.2, "Mechanical ventilation of acceptable indoor air quality". Mr West said that it was established at the outset that, unlike some of the council codes - he referred to them as being the precursors of this - this standard would not address comfort but would confine itself to health. He went on to say that this is not always a clear boundary but it has been a practical guideline. So, Mr Deputy Speaker, the Australian standard that we are dealing with is a health standard. That is the first and most important thing.

It is also important to understand that Australian standards are not things that are set in concrete. Australian standards are things that are developed but continue to change in the light of new information. So Australian Standard 1668.2, which deals with this issue, will come up for reconsideration again in a couple of years' time, and one of the major influences on that standard will be the evidence presented on this issue by the National Health and Medical Research Council. In fact, Mr Deputy Speaker, the National Health and Medical Research Council is already preparing work on this issue. I was fortunate enough to be able to speak to the chair of that committee and that partly influenced me in taking the stance I have taken.

Mr Berry: No. I think somebody else got at you.

MR MOORE: Mr Deputy Speaker, I hear constant interjection from Mr Berry.

MR DEPUTY SPEAKER: You will not hear it if it continues for much longer, Mr Moore. Please go on.

MR MOORE: Thank you, Mr Deputy Speaker. I shall try not to needle him too much, but he gets funny when he does not have his own way. The trouble with the original legislation, Mr Deputy Speaker, is that it was a simpleton's simplistic solution.

Mr Berry: But courageous.

MR MOORE: The other factor that influenced me greatly, Mr Deputy Speaker, and perhaps Mr Berry will have trouble understanding this - I will try to explain it carefully and slowly - is that there is a dose related effect. The epidemiological evidence presented to us on this issue makes that very clear. The vast majority of epidemiological evidence f

or the significant effects of passive smoking comes from studies of the partners or spouses of smokers, and there is no doubt that there are significant health impacts from passive smoking. I believe that this legislation was passed in principle by this house because we recognise that that is the case.

There is one particular factor that we must take into account in dealing with that, Mr Deputy Speaker. I will refer now to our report, at paragraph 2.27. A Victorian study indicated how much time people spent at home, how much time they spent at work and how much time they spent in other places. Restaurants, the only places really focused on by Mr Berry, represent only a small part of the third dot point in that paragraph. Sixty-eight per cent of our time is spent at home, 18 per cent at work, and 6.1 per cent in other places. Restaurants are a small part of other places. When we are talking about a dose related problem, it is important for us to realise that a small exposure, certainly from the epidemiological point of view, would indicate that there is a very minor risk. Nevertheless, Mr Deputy Speaker, there is a health concern about smoking and about passive smoking. Had the proponents of this legislation been really interested in the genuine public health question, the population health question, they would have taken on the difficult areas and gone well beyond just the restaurant solution, the simple solution, the simplistic solution of a simpleton.

The other part of the problem in dealing with simplistic solutions is that they invite backlash. There was an article recently in the *Financial Review,* taken from the *New York Times*, referring to a backlash in California where, through their citizens-initiated referendum legislation, an approach is being engineered by the tobacco companies, particularly by Philip Morris. The report says:

The proposal would replace about 270 stringent local smoking laws in California with a single, less stringent State law. More directly, the proposal would allow business and building owners rather than government officials to decide where to permit smoking, so long as it was in designated, well-ventilated areas.

Mr Deputy Speaker, if we are serious about this we have to be very careful to structure a solution that will work and that will not invite backlash. That is what the majority report of the committee has done. It is particularly important that we do not ignore young people and the places where smoking is at its greatest. Mr Berry's simplistic solution ignored the areas that were of greatest harm. If he was genuinely interested in population health he would not have ignored those.

The recommendations, Mr Deputy Speaker, can be found on page ix of our report. The structure proposed is:

1. An immediate ban on smoking in such places as shopping malls, schools, taxis, public transport -

that includes drivers of buses -

enclosed recreational and sporting facilities, waiting areas, lobbies, stairways and venues primarily used by people under the age of 18 years ...

This was part of the plan Mr Berry was implementing. It does not move away from that.

The second part of the structure is a 12-month restriction in restaurants, as soon as this legislation is gazetted, to 50 per cent non-smoking in restaurants. That is a temporary measure only. At the end of that 12 months, at the end of that phase-in period, the restaurants will be non-smoking unless they apply for an exemption. An exemption will apply only where they meet the ventilation standard, the health standard, Australian Standard 1668.2 of 1991. Then, according to our recommendations, the maximum area that any restaurant will be allowed to have in which to allow smoking, where they have appropriate ventilation, will be 25 per cent. That ventilation was designed specifically to match outside air quality where people are smoking. It is quite clear; that is what it was designed for. Had Mr Berry's solution been a genuine one, he would have sought to ban smoking not just in restaurants but also in the outside areas where people serve food from restaurants. This practice is growing, and I believe that it is beautifying our city. They are the same standards. That is what a consistent approach would have required, as opposed to a simpleton's simplistic solution approach that was designed simply for political mileage.

The next part of the strategy covers what the legislation simply was not designed to grapple with. At the end of a 30-month period all other public places, including bars, taverns, hotels, licensed clubs and the Canberra casino will be smoke free unless they apply for an exemption which will allow 50 per cent non-smoking, provided they meet those ventilation standards. One has to wonder why it was that the Government was not prepared to wrestle with these areas, often used by blue-collar workers, and an area like the casino. A 30-month period will allow them time to meet these requirements. We have provided a strategy to take into account the issues that are raised in population health terms. *(Extension of time granted)* We have gone to the area where smoking is genuinely presenting population health problems, where there is the greatest smoking, not where there is minimal smoking. Ms Ellis and I went to New Zealand - she refers to that in her dissenting report - and we found that what had been achieved in the restaurants there was very little different from what had been achieved here without such legislation. I must emphasise that I believe that they had a very different starting point from the starting point that we had in Canberra.

Mr Deputy Speaker, I think that this report provides a guideline as to how to deal with such problems. I do not dismiss lightly Mr Berry's intention to attempt to take the areas that were easiest to deal with and to try to change a community attitude by making an absolute change. I believe that that may have had some impact, and I do not doubt that it was a genuine attempt. Unfortunately, I believe that it would not have worked.

I would like to make a couple of references to the dissenting report of Ms Ellis. In doing so, Mr Deputy Speaker, I would like to emphasise again the goodwill on the committee - unlike the approach taken by Mr Berry - and the attempt made by Ms Ellis at all times in the committee to engage in positive and logical discussion. Often when people have discussions they eventually come down in a different way, with a different attitude.

If anything, the work of this committee has given me a great deal more respect for the effort and contribution by Ms Ellis. At the end of her dissenting report she quotes some remarks by Brendan Nelson, the president of the AMA. He said:

The ACT is in a position to lead Australia with landmark public health legislation ... smokers can choose not to smoke but non smokers can't give up breathing ... The whole Assembly now needs to back this sensible, practical and crucial public health measure.

I believe that our recommendations will have the support of the majority of members of this Assembly. We are proposing a sensible, practical and crucial public health measure; a public measure that does not ignore the hard areas and does not provide a simplistic solution, but one that takes on the full range of areas, particularly where the public health or population health question is most critical, and that is with young people taking up smoking. It is the young people, in particular, who circulate in the areas that Mr Berry was prepared to ignore.

Mr Berry: Like what?

MR MOORE: He interjects, "Like what?". He does not even realise which areas they are. They are areas like the taverns, the pubs and the nightclubs. We take in a full range of solutions.

Mr Berry: You know that that is not true.

MR MOORE: Mr Berry's interjection about what I know and what I do not know indicates quite clearly the difficulty that he has in grappling with this problem. Yes, we know the same things. I presume that he has read the same evidence. He has come up with a simplistic solution and it does not work. Mr Deputy Speaker, having wrestled with these very difficult issues, having sorted the information provided, which often was, if not absolutely false, considerably exaggerated on both sides of the equation, we have tried to take a long-term view and to put into place a long-term strategy rather than a short-term strategy. With those few words, Mr Deputy Speaker, I commend the report to the Assembly.

MS ELLIS (11.20): This morning Mr Moore has made somewhat strident comments on some of the evidence given to the committee. He said that some was true, and some was false or misleading. Keeping that in mind, members may understand the length of our deliberations and the need for the care that the committee exercised before presenting our report to the Assembly this morning. The processes through which the committee put itself were exhaustive, including some very long and late into the night meetings and some very early morning meetings.

Quite simply, we are looking at a question of public health. There have been times in the past - I am sure that there will be such times in the future - when people in positions like ours have had to make decisions in the broad public interest. Those decisions never have pleased everyone, and I believe that they probably never will; but with this job comes a responsibility, after looking at all of the available evidence, to make sometimes very difficult decisions. I recall very long and very strident debate, quite a number of years ago

now, over the introduction of seat belts. That is a reminder to members of the sort of public health debate that can occur. That is just one example. The furore at the time was enormous. The vested interests at the time put forward a very strong argument, but the people who had the responsibility made a hard but necessary decision which has been proven to be to everybody's benefit.

In considering the Smoke-free Areas (Enclosed Public Places) Bill - I remind members, as did Mr Moore, that the Bill has been agreed to in principle - I believe that we were looking at a very clear public health issue. I included dissenting comments in the committee's report only after what can be described as very long and very hard consideration of the evidence in front of us. I do not believe in this case that the broad public health can be protected by allowing smoking in some - I emphasise some - enclosed public places on the basis of exemptions as outlined in the report. I acknowledge that the application of Australian Standard 1668.2 of 1991, which is commonly referred to as 1668, for ease, as a means of exempting some places will, without any doubt, reduce the public health hazard; but I believe that, if we have the opportunity to remove the hazard rather than merely reduce it, it is our responsibility to take that decision. My comments in the report outline in detail my other concerns, including the questions of equity and fairness when it comes to the application of that exemption.

The committee's report places much emphasis on the application of 1668 relative to air-conditioning and ventilation systems. The evidence before the committee was divided on this issue. I do not agree with Mr Moore that there was an unequivocal piece of evidence in front of us that said that it was or was not one thing or the other. On the one hand it was claimed that this standard was designed primarily as an amenity issue, with a reduction in health hazard. On the other hand, as quoted from one of the sources by Mr Moore, it was claimed to be a health measure. It is, if reduction of hazard is the aim. It is not, on the evidence before us, if removal of the hazard is the aim. I believe that removal should be the aim.

The other aspect of the report relates to harm minimisation and dose related harm - two comments which Mr Moore has referred to this morning. While not pretending to be an expert in any way on medical matters, or on matters relating to harm minimisation and dose related harm in connection with the use of drugs, I question the application of this theory in this case. Harm minimisation and dose relatives in the area of drug use, for example, I endorse and support; but, in my view, in that sort of instance we are talking about the user. I do not believe that non-smokers who find themselves affected by passive smoking should be made to feel better about that circumstance by reduced levels or harm minimisation. I believe that they need, and want, removal of the substance. We are not talking about whether or not people smoke but where they smoke.

My opportunity recently to discuss this matter with officials in New Zealand gave me the chance to carefully consider the options. They have in place in New Zealand a regime where establishments such as restaurants can offer non-smoking and smoking areas. That is their version of what we are attempting here. Their Act, which is called the Smoke-free Environments Act, sets out a minimum requirement of smoke-free space in

these establishments. We were told at the meeting that we had with the officials there that they are experiencing great problems in operating under that arrangement. I mentioned this in the report. They envy the situation we find ourselves in and the opportunities that we are facing here.

A concern which I want to address specifically is the recommendation that, 30 months after gazettal of the legislation, additional enclosed places be listed in the Act, including bars, taverns, hotels, licensed clubs, et cetera. In the case of restaurants, shopping centres and so on, which are intended to be covered by the Bill, much has changed in the mind of the community. These areas in some cases are already voluntarily smoke free. The ground is fertile for the changes proposed. I do not believe that the same applies to those additional category items. Social change of this kind will succeed, and should go ahead, only when that ground is fertile and community expectations reflect the appropriateness of that change. To impose a timeframe and not really concern ourselves about input from the community, bringing the community along with us, I believe, can be dangerous and can risk what is being attempted. I believe that nothing should occur until that movement of opinion is evident within the community area that I am talking about. What do we do if that movement does not occur? If we do not see opinion change within that period of 30 months, do we impose it anyway? I really question the imposition of that time constraint in this instance. I am a great believer in necessary social reform. Legislators need to be far enough ahead to lead the reform but not so far ahead as to leave the community behind. I fear that in the instance of this category it could happen.

I am disappointed that we have a split outcome on this inquiry. Members of our committee, like all others, worked hard to agree; but I could not, in all conscience, agree to the eventual outcome. We had a great opportunity to set a landmark outcome. I hope, in fact, that this Assembly may still consider that. The outcome of these recommendations will lead, I believe, to complication, confusion and a very uneven playing field based on financial ability to receive exemption. The result is not guaranteed to protect public health to the extent that I believe possible.

Whilst endorsing quite an amount of the committee's report in general, I very reluctantly but very strongly dissent from it in the areas that I have outlined. I suggest that members of the Assembly and members of the community read very carefully the report in full, including my dissenting comments, and consider, again with great care, the imposition of exemptions. If you have a restaurant or a hotel and you are rich enough, you can manage it; if you are not, you cannot. I really cannot understand the equity of the application of public health measures under those circumstances. Any business operation in this Territory that could be affected by such legislation should be considered. There is no doubt about that. There is no way that I want to endorse anything that sees people go out of business, but we may very well see that happen as a result of the recommendations in this report. If you have a restaurant in a small building and it is not physically possible to install air-conditioning equipment you do not have any choice; you have to go smoke free. That suits me because that is what I believe ought to happen, but in this case we are purporting to put up a choice. I do not believe that that offers that choice. I really want people to consider very carefully exactly what this report is saying. Consider the intent of the Bill and think very carefully about the comments that I have made. Hopefully, we can still come out with a good outcome for the people of the Territory.

MR WESTENDE (11.29): Mr Deputy Speaker, it is very difficult to follow the two previous speakers as they have discussed what happened in the committee meetings. I will try not to be repetitive in covering some areas that may or may not have been explained sufficiently. In my opinion, Mr Deputy Speaker, this report has all to do with educating people about the effect that smoking can have on their health. Having said that, we should be cognisant of the fact that smoking is not the only thing that affects people's health. We should also be aware that, whilst the AMA advocates the right of the people not to have to inhale smoke, the smoker, who contributes substantially through taxes on cigarettes, also has rights. We have to consider rights - the rights of the individual, the rights of the business community, the rights of the landlord, the rights of the tenants, and so on.

We are told about choice. Most people who frequent restaurants already have choice. The committee was given a list of some 100 eating places that already are entirely smoke free; so people do have choice. As well, when booking into a restaurant, one is invariably asked, "Smoking or non-smoking?". The people in restaurants are segregated already. As a result of my wartime experience I know that it is far better not to force people. It is better to educate people about rights and wrongs, and it is better to educate people about the effect of smoking on health. The committee was provided with much conflicting evidence, which proves only one thing - that, if one side can bring up five arguments for, the other side can bring up 10 arguments against. Ultimately the committee had to choose the policy that best reflected where we are at.

In coming to some of our conclusions we had to weigh up the commercial correctness or otherwise of disadvantaging one type of business against another. The committee had to weigh up other commercial realities, such as what would happen to the small restaurants and taverns that Ms Ellis referred to where the operator is not the owner, and who should bear the cost of the extraction equipment. For instance, in the case of restaurants, the committee recommended a 75 per cent no-smoking area and a 25 per cent smoking area. Ultimately, the restaurateur will have to make a commercial decision as to whether extraction equipment is worth the custom of the 25 per cent who would utilise this area. It is probably not for the committee to say whether this is 100 per cent correct or 100 per cent wrong. Ultimately, the restaurateur will make a commercial decision. The negotiations between landlords and tenants can take time. To obtain a building permit takes time, and therefore it was correct to recommend a phase-in period. The committee, as you heard, was made up of different people with different attitudes, and in my opinion it was remarkable that we achieved as much consensus as we did, especially having regard to the mass of information we had to contend with.

Reverting to health, the fact that the committee recommended AS1668.2 of 1991 as the minimum air quality standard had much to do with the fact that these standards are reviewed every four years. These are living standards which change with the times and with the technical expertise that is available. As well, it was pointed out to the committee that there are many other substances in the air. In fact, there are hundreds of other substances which can contaminate the air and which can be far more injurious to health than ETS, environmental tobacco smoke. Evidence was given by various people in the mechanical heating and ventilation equipment area that much of the ETS can be removed,

but it is far more difficult to remove indoor pollutants such as allergenic fungi, airborne dust and formaldehyde gas. Allergenic fungi are most often cited as the carrier of legionnaires disease. All of these items occur in commercial buildings far in excess of ETS. In fact, the findings were that ETS occurs in only 2.8 per cent of the commercial buildings, while allergenic fungi occur in 33 per cent of all buildings, airborne dust in 26 per cent of all buildings, and formaldehyde gas, which is nearly undetectable, in 8.5 per cent of all buildings. Therefore, Mr Deputy Speaker, it is my opinion - - -

Mr Berry: What about carbon monoxide? You have not mentioned that yet.

Mr De Domenico: You are going to blame cars and buses, are you?

MR DEPUTY SPEAKER: Order! Hot air may turn out to be quite lethal for people in this place if they keep this up. Please continue, Mr Westende.

MR WESTENDE: Thank you, Mr Deputy Speaker. It is my opinion that the committee has come up with a commendable report, considering the many different aspects it had to sift. I am extremely happy with the general spirit of cooperation that existed in the committee, and I can understand some of the reasons why Ms Ellis could not entirely agree with us. I would like to add my voice to the thanks that the chair has extended to the committee members and to all who contributed, including the many people who rang or who wrote to give advice or otherwise on this subject. It gives me great pleasure to commend the report to the Assembly.

MR BERRY (11.37): It is regrettable that one has to see this sort of information put before the Assembly, given the modern knowledge about these issues which is available. In the first place the Liberals took a particular view, that mechanical ventilation was okay; and Mr Moore took a particular view, that mechanical ventilation was okay. This report is merely a justification of their original views. They shoved aside all the health information that was put before that committee. The report does recommend the introduction of smoke-free public places in many parts of the environment, in accordance with Labor Party policy. What has been ignored is the commitment by Labor to introduce safeguards out there in the workplace. I saw in the *Canberra Times* this morning a report in relation to that matter. That is something that Labor has been committed to for a long time and it will be dealt with in the ordinary course of occupational health and safety operations of the Government.

I have to comment on the actions of the Independent, the chairman of this committee, and the Liberal member. It was a particularly gutless effort and it demonstrates that they are really apologists for the tobacco companies. They set out to provide loopholes and encouragement for people to consume tobacco at the expense of other people. There is no question about that. These recommendations will be roundly condemned across this country by a whole range of campaigners for public health who expected better than this from the ACT. The people that Mr Moore is supported by out there in the community also will be puzzled by his approach on this matter because, as I said a little while ago, this is an encouragement for people to consume tobacco. It is a known health risk. It is also well known that other people's tobacco smoke causes illness.

I have to point to the comments in the dissenting report which make it very clear that the use of Australian Standard 1668 is not appropriate in these circumstances. Of course, people hang on it. Those people who hang on it to encourage the consumption of tobacco and to play up to the tobacco companies ought to be ashamed of themselves. They will be remembered by many people, not only in the ACT but across Australia, for abandoning the obligation to protect public health.

Looking at some of the other recommendations in relation to other places, they will happen, thankfully. Apparently it was unnecessary for the majority of members on the committee to try to take a political point out of those two. It is at least a little warming to see that there will be some support - I expect overwhelming support - for the Labor Party's policy in respect of those matters. That is to be welcomed. In relation to restaurants, they were not game to bite the bullet. They were not game to create the level playing field. They chose to grandstand on the issue of mechanical ventilation, which I think has been proven not to provide the sort of protection which is required from ETS, environmental tobacco smoke.

I do not see in here a lot of interest for employees who work in those places. I do not see any mention, for example, of the circumstance where a patron may blow smoke in the face of a worker. What would the mechanical ventilation do for those workers? Nothing. Not a thing. It seems to me that the rights and the safety of workers have been ignored in many respects. I know that the occupational health and safety code of practice will protect the interests of workers and that this has to be done in a consultative environment. That has always been promised, and it will be delivered. The operation of the OH and S Office demonstrates their commitment to consult with business on these issues, and it will apply. It will apply right across the workplace.

The shabby weakness of Mr Moore and Mr Westende on the issue of restaurants will be long remembered. They lacked courage. It was an easy way to demonstrate out there in the community that you really care about the comfort and health of workers and people who patronise restaurants in the ACT. You failed miserably. You have taken a stupid and confusing approach. All it will do is confuse patrons. It will also impose a playing field which is not level. That also will cause a great deal of concern out there in the community. For example, those who are able to afford this expensive air handling equipment will be able to provide encouragement for people to smoke; they will also be able to provide an environment which endangers others. There is no question about that because there is no protection for the worker or the patron when another patron or another worker blows smoke in the face of one or the other.

Mr Moore: You were not worried about it in the casino. You were not worried about it in bars. You were not worried about it in taverns. The duplicity is extraordinary.

MR BERRY: I hear Mr Moore yell, "Duplicity". He did not look in the mirror this morning. That is obvious. The double-dealing and weakness on this issue from this man has been demonstrated. You know, Mr Moore, that the occupational health and safety guidelines were going to deal with all of those workplaces. You have chosen to ignore that.

Mr Moore: Why do they not deal with restaurants? You have dug yourself a hole.

MADAM SPEAKER: Order! It is nearly 11.46 am, Mr Berry. I will interrupt you.

Motion (by Mr Berry) agreed to:

That the time allotted to Assembly business be extended by 30 minutes.

MR BERRY: Madam Speaker, workplaces like the casino, which Mr Moore just mentioned, were going to be dealt with, and he knew it. He knew it when he stood up and presented this report in the Assembly.

Mr Moore: They were not. You denied it.

MR BERRY: You knew it. You knew it when you stood up in this Assembly. You knew that the occupational health and safety code of practice was going to apply right across the work force, with no exceptions. This was the chance that Michael Moore missed. He will be remembered for this. He can hang his head in shame because he will be remembered for missing the chance. He will be remembered as the apologist for the tobacco companies, all of them. I am sure that he remembers their names, addresses and telephone numbers.

Mrs Carnell: What did you come to see me about last night, Wayne?

MR BERRY: Of course, so too will the Liberals.

Mr Moore: I raise a point of order, Madam Speaker. The imputation there is clearly entirely inappropriate - that in some way I have been paid off by the tobacco companies. I can take a bit of stick too, Madam Speaker, but that imputation is entirely inappropriate.

MADAM SPEAKER: Would you withdraw that, Mr Berry?

MR BERRY: What was the imputation?

MADAM SPEAKER: Mr Moore believes that you said that he was in the pay of the tobacco companies, and I wish you to withdraw it.

MR BERRY: I do not think they think he is worth while paying.

MADAM SPEAKER: Withdraw.

MR BERRY: I would never expect that they would pay Mr Moore.

MADAM SPEAKER: Thank you. The imputation has been withdrawn.

Mr Kaine: Madam Speaker, that is not a withdrawal.

MR BERRY: It is a withdrawal.

Mr Moore: I believe that he has not withdrawn that imputation, Madam Speaker. I would like him to withdraw the imputation.

MR BERRY: Okay; I withdraw any imputation that the tobacco companies would pay you. But I still say that you are an apologist. You are an apologist for the tobacco companies because you have fallen into the trap that they have set for you. *(Extension of time granted)*

Carbon monoxide does not appear to worry members opposite. I heard Mr Westende run through a whole range of gases which were of concern environmentally, but he never mentioned carbon monoxide. He never mentioned what 1668 does with carbon monoxide. I can tell you, not much. Then I heard Mrs Carnell interject, "What about motor cars?". Mrs Carnell, you are not allowed to take them into a restaurant, and if you were you would not be allowed to start them. Under your provisions you can take a packet of smokes into the restaurant and blow the smoke in a worker's face and get away with it; it is all right. You have to really understand this issue. Obviously the Liberals do not. They have seized upon the issue of mechanical ventilation from the outset. They have collaborated with Mr Moore on this question, obviously, because they both agree on this score. Something that could have been perfect will be spoilt by these recommendations.

On the plus side, I congratulate all members of the committee for their work in so far as it does not affect restaurants, but in relation to restaurants it has been a cop-out. It has been weak; it has been gutless. It will mean that, for a long time yet, people who go to restaurants will have to suffer the effects of environmental tobacco smoke. It also means that workers in some restaurants will forever have to suffer environmental tobacco smoke if you have your way. The two-pronged approach by the Government was to protect workers.

Mr Moore: It will be exactly the same as if they were sitting outside.

MR BERRY: You have made sure, Mr Moore, that there is a chance that some workers will always be affected. You have also made sure, in this simplistic and stupid report, that some patrons will forever be affected by it. I think that is a great shame.

In relation to those other matters where recommendations have been made, without having had the opportunity to study them closely, I see that there is general support for the policies which have been talked about in this place from the Labor benches. That has to be welcomed, notwithstanding the agitation and anxiety that I feel about the refusal of the majority of committee members to bite the bullet in relation to restaurants. It is a lost opportunity. I think it is a failure that will long be remembered. It will be remembered by those people out there in the community who really expected something sensible.

Mrs Carnell: And got it.

MR BERRY: You would not expect anything from the Liberals; you would expect them to drop onside with the tobacco companies. It would never surprise anybody out in the community if they dropped onside with tobacco and business interests. There would be shock and amazement out there in the community to see Mr Moore drop onside with these interests. I think you have lost an opportunity, Mr Moore, and I feel sorry for you.

MADAM SPEAKER: I call Mr De Domenico.

Mr Berry: I did not think you were going to speak until I got up, Tony.

MR DE DOMENICO (11.52): You are right again, Mr Berry. You are not often right, but this time you are. I would not have spoken if you had not given us your diatribe. I congratulate all members of the committee and the committee secretary for the report before us. It goes to prove that, whenever simplistic ideas based on politically outdated manifestos are put before this Assembly, they do not stand up to scrutiny. What the committee has done has shown again that something put up to this Assembly by the former Minister, Mr Berry, has not stood up to scrutiny, and it never will.

From the quick reading I have done of the report and from the speeches of the three members of the committee - and they are the ones on whom we should place all the credibility - commonsense has come to the fore on this occasion. Commonsense usually avoids backlash. Most of the time I am against imposing on people legislation requiring them to do things or not to do things, but in this place I have grown to accept the reality that sometimes that needs to be done and that, when it needs to be done, not everybody is going to be happy with it. That is where compromise and commonsense come in. This report has shown to me that you can have a commonsense approach with which most people should be happy. If you can convince them that you have considered something and then come up with a commonsense approach, they should be happy.

As Mr Moore, Ms Ellis and Mr Westende said, there was a lot of talk about the Australian standard. So there should be. Mr Berry, on the other hand, talked about the ubiquitous worker. What are we going to do to protect the worker? What about the worker? Had Mr Berry looked closely at the legislation, had he looked closely at occupational health and safety standards, he would have known that they have identical air standards. That is point No. 1. So much for the worker. Of course occupational health and safety standards should protect the worker. They would be deficient if they did not. If Mr Berry looks at it very closely, he will find identical air standards. So much for that.

A lot has been said about the public health issue. Mr Berry said that, had the Liberals and Mr Moore bitten the bullet, they would not have come up with the 25 per cent-75 per cent scenario for restaurants. I am suggesting that it was because the majority of the members of the committee decided to bite the bullet and commonsense prevailed. Mr Berry, rather than talking about other people biting the bullet, should have looked into the mirror he invited Mr Moore to look into. Mr Berry was virtually saying, "It is okay to smoke in a pub or a casino, but it is not okay to smoke in a restaurant". What about that for biting the bullet? Before Mr Berry comes in here and talks about philosophical things that other people should do, he should look at himself very closely. It is no wonder that I was drawn to stand up and speak about this.

Mr Westende talked about education, as did Mr Moore and Ms Ellis, I believe. Of course we ought to be looking at education. As a reformed smoker, I am making sure that my kids and others I can influence do not smoke. Smoking is not good. We all know that; all members of the committee know that, as do most members of this Assembly who are non-smokers.

A point was made about the effect on the business community. Once again, I have to say to Mr Berry that usually these things sort themselves out. I can guarantee that, as Mr Westende said, people already have choice in terms of the business community. There are over 100 establishments that provide a completely non-smoking environment. So people do have that choice. As I think Mr Westende said, rights also need to be considered in relation to the people who do smoke. Restaurant owners also have the right to say, "I believe that I can fulfil certain standards". These are worldwide standards, by the way. Let us not talk about the Australian standards being just Australian; we are at the forefront in these standards, according to my advice. So choice does come into it. Landlords, tenants, restaurateurs, consumers, workers and everybody else have rights. That is why the difficult job this committee had, I think, it did very well.

Taking all those things into account, the committee sifted through the information available to it and said, "This is what we thought was outlandish on one side and this is what we thought was outlandish on the other, and we have come up with the best possible compromise". I am proud that the processes of the committees of this Assembly have worked once more. It seems to me that that is what this place is all about. It is about getting the right information before us, it is about making an assessment on that information, and finally it is about making a decision, after we have assessed the information.

I conclude my remarks by saying, once again, that I am delighted to speak on this matter. It proves to me that if you have simplistic ideas based on outdated and blinkered points of view that do not stand up to scrutiny, time and time again those outdated and simplistic views will be brought to the fore and will be exposed. This is exactly what this committee has done. It has proved once and for all that commonsense shall prevail, and we will see, I hope, when the vote is finally taken on this, that commonsense will prevail.

MRS CARNELL (Leader of the Opposition) (11.58): Madam Speaker, one of the things that Mr Moore said were interesting - and Mr Berry seemed to have got a little confused about it - was exactly what passive smoking is and what are the dangers associated with passive smoking. Mr Moore commented about passive smoking and the dangers associated with that being dosage related. I do not believe that anybody would argue with that point of view. There might be some argument about exactly how much that dosage needs to be or for how long. All the statistics and information we have suggest that a level of tobacco smoke in the air for a very long period tends to be more damaging and more dangerous than a lot for a short period. Again, that is information I do not think anyone would dispute.

I believe that this report has attempted to walk that very fine line between the rights of everybody in the community and the public health aspects of the passive smoking issue. I am sure that everybody in this Assembly believes that everybody has the right to breathe safe air, that is, air that is, as much as is possible, smoke free, just as we have a right to walk outside the door and breathe air that is not heavily polluted - something that I know ACT clean air laws are very much part of and have very much backed up.

This committee report, if it is brought forward into legislation, will make sure that everybody will have a right to breathe air of a quality similar to that outside, and that is the basis of the ventilation standard involved. If that is not achieved, then the legislation simply is not being complied with and, therefore, the person is outside the requirements of the proposed legislation. It will be all right to have smoking either in 50 per cent of the premises, if it happens to be a bar, a casino or a licensed club, or in 25 per cent of the premises if it is a restaurant, only if there is adequate ventilation to the Australian standard, which produces the same quality of air as outside air.

Mr Berry commented about blowing smoke in people's faces. Certainly that is very unpleasant, as are lots of other things, like people who do not use deodorant. There are lots of issues that are equally dangerous to health. A quick blow of smoke in somebody's face simply does not cause cancer. In my view, and certainly not everyone would share this view, what does cause long-term health problems is a significant amount of smoke in the air over a long period. This approach ensures that that does not happen, either for patrons of these establishments or for the workers in them. The recommendations go on to say that, where smoking is allowed in any of these premises, the occupational health and safety requirements must be complied with. There is no doubt that this report is totally in tune with occupational health and safety requirements as they are now and as I understand they will be in the future, with the new requirements that will be brought into this place at some stage in the future.

What we have is a balance between the rights of non-smokers and of smokers - who do have rights, whether we like it or not. A very impressive lobbying exercise has been taken on board, not just in Australia but around the world, to suggest that smokers do not have any rights. I believe that everybody on this planet has rights. What we have done here with this report is ensure that that 30 per cent of the population have rights. Certainly those rights have been restricted by this report. Those people have been restricted to restaurants that perceive that, on an economic base, they should put in these extraction systems. So they cannot just go anywhere, nor should they be able to, because people who do not smoke have rights too. We get back to that question of balance.

I think one of the things that have been forgotten is the ventilation standard. It is not something that has popped out of the air; it has been in existence since 1991. Buildings that have been built to Australian standards during that time will have these ventilation systems in place now. The casino that is being built will have extraction systems to this level in place. Places such as the Hyatt have these extraction systems in place now. There is not a huge extra expense for buildings that have been built or refurbished of recent days. We are talking about an impost on some businesses. That is something the Liberal Party would always look at with a certain amount of scepticism.

Equally, with occupational health and safety requirements and the responsibility of employers to their employees and to their customers, whatever business or hospitality area they are involved in, the information we have at our disposal nowadays suggests that they have a responsibility to produce a safe work environment. That means going non-smoking or, alternatively, having appropriate ventilation systems fitted to their premises. Regardless of this or any other legislation, it is the responsibility of employers to ensure those things.

The fact that there are 100 eating establishments in the ACT that we understand are smoke free, the fact that a number of shopping centres have already gone smoke free, the fact that a very large number of public places - the list is in the report - have already gone smoke free, shows that business people, people in public life, in public facilities, understand their responsibilities and already have made a huge effort to achieve safe workplaces. This report suggests that that should be done on a fair and equitable basis, where everybody knows the rules and the rules are the same for everybody - not just for restaurants but also for bar-bistros and eating areas that are part of bar areas.

With Mr Berry's legislation, there was a huge problem with the definition of a restaurant. With this approach, there may be, for a period of just over one year, a certain amount of disagreement on what is a restaurant and what is a bistro and whether you have to comply in 12 months or 30 months; but that is a substantially different argument from whether you have to comply at all, and that is really where Mr Berry's legislation came unstuck. In this situation, everybody involved in the hospitality industry in the ACT - and that is basically what we are talking about here - plus a large number of other places will know when they have to comply and how they have to comply. They can now go out and make economic decisions on whether it is appropriate, if they have to, to put in these new systems. As I said, many will have them already. They can make that decision on a business basis, and the ACT Assembly can be confident that we have done our job and ensured that both employees and users of these facilities will be safe.

MR CONNOLLY (Attorney-General and Minister for Health) (12.06): Madam Speaker, it is with some disappointment that as Minister for Health, having taken the baton on smoking from Mr Berry, I see that the Assembly committee has basically suggested a watering down of the legislation originally given to them. Rather than giving my words - you have already heard Mr Berry's words - I would like to read a statement issued yesterday by Dr Brendan Nelson, who is the Federal President of the AMA.

Mr De Domenico: He does not get a vote in here.

MR CONNOLLY: Who, indeed, does not get a vote, and who, as far as one can tell, is not closely associated with the Australian Labor Party. Under the heading "AMA urges tough stand on smoking", the statement reads:

The Australian Medical Association has today strongly urged the ACT Legislative Assembly not to dilute proposed legislation to protect the public from environmental tobacco smoke in public places.

AMA Federal President, Dr Brendan Nelson, and ACT Branch spokesman on smoking, Dr Mark Hurwitz, made an eleventh hour plea to Assembly committee members examining the proposed smoke-free areas legislation, to take a tough stand on the issue.

The committee's report is expected to be tabled in the ACT Legislative Assembly tomorrow.

"Once again, the ACT is in a position to lead Australia with landmark public health legislation.

"Members of the Assembly have an important opportunity to introduce substantial protection for the public, and in particular children, against the harmful effects of environmental tobacco smoke," the doctors said.

"Passive smoking is a killer. Population studies have confirmed that passive smoking causes lung cancer amongst non-smokers and there is increasing evidence that passive smoking also causes heart disease.

"One US study concluded that passive smoking is the third leading preventable cause of death after active smoking and alcohol abuse.

"We need to remember that cigarette smoke contains more than 4,000 chemicals and at least 43 cancer causing agents.

"And bronchitis, chronic sinusitis, asthma, emphysema and cardiovascular disease can be aggravated by exposure to environmental tobacco smoke.

"This legislation will not only protect non-smokers, but will also help smokers kick the habit by further restricting places where they can smoke.

"Smokers can choose not to smoke, but non-smokers can't give up breathing.

"The ACT Health Minister is to be congratulated for taking up this legislation with vigour. The whole Assembly now needs to back this sensible, practical and crucial public health measure," the doctors said.

Madam Speaker, they are not my words; they are the words of the Federal AMA. I can assure members that, as we speak, Mr Moore's report is being couriered by one of my staff to the Federal AMA, who will look very carefully at this proposed so-called air-conditioning standard. All the advice I have received is that this is not a public health standard; it is not designed to provide environmental health standards.

We have seen a massive campaign against the Government's move on this. It is fairly clear that certain industries are prepared to see the ACT as the test case for strong action on smoking. We, too, are happy to see the ACT as the test case, as is the Federal AMA, and members who think that what the committee suggests is some great improvement - indeed, I heard the words "a strengthening of the legislation" - should not expect to hear a lot more from me on this; they should expect to hear a lot more from the Federal AMA and some of the outstanding authorities on public health in Australia, giving you advice in the hope that you might, in an impartial, non-partisan political way, listen.

I have a horrible feeling, Madam Speaker, that the obsession members opposite have with Mr Berry is somehow clouding the issue here. Mrs Carnell in the past has taken a stance on public health issues that has generally been seen as progressive, as ours has been - a stance that has been supported by people like the AMA and others. I fear that, in their blinkered obsession that anything Mr Berry does is wrong, they are determined to find that Mr Berry's Bill is wrong. Do not accept my view that Mr Berry's Bill, which is now my Bill, is right; accept the views of Dr Brendan Nelson. The whole Assembly now needs to back this sensible, practical and crucial public health legislation.

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

That so much of the standing and temporary orders be suspended as would prevent the conclusion of the consideration of this report.

MR HUMPHRIES (12.11): Madam Speaker, I want to contribute briefly to this debate. I have not read the report in detail, obviously; but it is quite clear that the report is a significant attempt, at the very least, to deal with the extremely complex and difficult issues that this Bill has given rise to. I think Mr Berry, and to some extent Mr Connolly, have been rash to dismiss the work that has gone into the report. You would think from what they have said that the report was some sort of half-baked compromise which will produce no discernible change in our law in the ACT.

I think, with respect, that is quite wrong. What the Bill proposes would be considered extremely radical in any other context in Australia. The report recommends that within 30 months of its enactment the provisions of the Bill requiring minimum non-smoking areas be extended to bars, taverns, hotels, licensed clubs, the Canberra casino and similar places where the primary business is other than the sale of food to be consumed on the premises, and to separately enclosed areas of hotels, restaurants, clubs and similar premises; and an immediate application of the Bill to enclosed shopping malls; schools and educational facilities; health care facilities; retail shops and businesses; taxis, buses, and all forms of public transport; indoor sports and recreational facilities; exhibitions, displays and meeting areas; facilities used for exhibiting motion pictures, stage, drama, lecture, musical recital and other performances; parts of private residences when used for registered commercial child-care; indoor service queues, counters, waiting areas, foyers, hallways, rest rooms and toilets; lobbies, hallways, stairs, lifts, dining areas, et cetera.

It is hardly a piece of conservative law-making, hardly a case of "Let us keep the status quo". This is an extremely significant step. We are going further than any other law-makers in this country have attempted to go. That seems to me to be the case. I would like to have the Minister point out to me some jurisdiction - - -

Mr Connolly: "All the way with the AMA" is our view on this one, Mr Humphries.

MR HUMPHRIES: We certainly have changed our tune about the AMA - "our friends, the AMA". Mr Connolly has come a long way. By the way, just for the sake of public information, Mr Connolly said that Dr Brendan Nelson had no association with the ALP. I think even he readily admits that he has been for many years a member of the Australian Labor Party. He may not be right at the moment, but certainly he was for many years a member of the Australian Labor Party - not that that is of any relevance to his point of view on this matter.

Mr Connolly: And the other name on the press release?

MR HUMPHRIES: Mr Greenland's views on matters of smoking are very close to mine. I share his view that there is a great need for this community to tackle head-on the question of reducing the incidence of environmental tobacco smoke in our community, and that is why I see great benefit in the approach this report has taken. It is looking squarely at how we can greatly augment the facilitation of non-smoking areas in public places - all public places - in this Territory, but in such a way that we do not make the provisions unworkable and that we do not reduce this whole package of legislation to a laughing-stock.

With respect, the great fear I saw when looking at Mr Berry's original Bill - it is nothing to do with Mr Berry having put it forward; it is a question of what the Bill says - was that it simply would not be enforceable or enforced. I note that Mr Berry in the past, when supporting measures cracking down on some aspects of smoking, for example, the sale of tobacco products to minors, has not been prepared to back up his very strident rhetoric with resources to make it happen. In respect of this matter, I saw the great danger, and still see the danger, that if the provisions are unworkable, particularly in the lead-up to an ACT election, they simply would not be enforced. I wonder even now whether the present Minister will be prepared to go into public places such as restaurants and say, "Whatever the shape of this legislation at the end of the day, you must respect these rules about providing non-smoking areas".

Mr Connolly does not take a point of order or interject about what he will do; but I hope that, even if he does see this as a watered down version of the original legislation, he will be prepared to enforce the provisions of the legislation. That is essential if it is going to have any impact at all.

Mr Connolly: We hope that we can persuade you not to water it down.

MR HUMPHRIES: You may have to commit yourself, first of all, to making it workable. If you cannot make this Bill as amended workable, you certainly could not get a more radical Bill of the kind you are talking about enforced. It is a fairly extensive Bill and, whether or not there is a watering down of the original proposals, I must say that recommendation 6 is pretty clearly, in my view, a strengthening of the provisions of Mr Berry's original Bill. It is not a watering down at all; it is a strengthening of the provisions.

My other concern about his proposals was that there was no clear and definitive timetable for when we would see these provisions applied to the places where environmental tobacco smoke is a bigger problem. I go to lots of restaurants - I enjoy eating out, or I did before I had a baby - and I know that these days there is a very different environment operating in most restaurants than there was even 10 years ago. These days it is not common at all to encounter people smoking in restaurants. It is a practice that has declined dramatically in occurrence in the last few years. But I do know that, if I want to get a great lungful of somebody else's passive sidestream smoke, all I have to do is go to one of the Territory's bars or taverns, where the incidence of this problem is enormous.

Mr Moore: Or young people in nightclubs.

MR HUMPHRIES: Or young people in nightclubs - a tremendous problem. I would have thought we were looking particularly at protecting the younger members of our community, whose exposure to this problem is a matter of great concern. It must be acknowledged that what the committee recommends in this respect is a major improvement on what was originally contained in the smoke-free areas Bill, and it should be supported by all members of the Assembly, even members of the Government.

I hope that you will accept that a definite timetable not only puts a more positive face on what has to be a difficult task of confronting the areas where these sorts of things occur, but also gives businesses in this Territory the chance to operate within a set and understandable timetable. The thing my party is most concerned about in approaches such as this is the general uncertainty that would be created by rules that do not give any timetable for when they will be affecting particular areas of the industry. In my discussions with people from parts of the ACT hospitality industry, what clearly disturbed them most of all was not knowing when and how they would become subject to the provisions of this Bill. I therefore welcome and support those aspects of the Bill that provide for clearness and certainty for members of the community.

I should also comment briefly on the question of what Australian Standard 1668.2 is all about and whether it does make it clear that it is possible to provide a considerably ameliorated level of comfort and health by the use of extractor systems in enclosed public places. I read with care Ms Ellis's comments in a dissenting report. I note that she does not accept that the committee has been provided with sufficient evidence for it to conclude that this standard was intended for or can be reasonably used for the public health regulation of environmental tobacco smoke exposure in indoor environments. I was provided with a copy of the standard concerned - Revised Australian Standard AS1668.2, mechanical ventilation of acceptable indoor air quality. I note also that on the second page of that report it says:

It was established at the outset that, unlike some other council codes, this standard would not address comfort but confine itself to health.

This is, therefore, a report which at least purports to address itself entirely to the health issues arising from air ventilation.

Mr Moore: From the chair of the committee that put the standards together.

MR HUMPHRIES: Indeed, the report is prepared by the chair of the committee, as Mr Moore points out. With great respect and without wishing to be attacked for being personal towards Mr Berry, Mr West - the chairman of this committee and a director of Gutteridge Haskins and Davey Pty Ltd, with some expertise in the area - has a little more technical knowledge of this matter than does Mr Wayne Berry.

MR STEVENSON (12.21): Madam Speaker, I will speak briefly on the report because it has only just been tabled and I have not had a chance to read it. I did not have anybody on the committee that may have facilitated that to some degree. I will wait until the Government responds to mention the details. It should be said that the recommendation is totally and immediately to ban smoking in many areas, both public areas and commercial areas. I am not sure of the extent of the ban in some of these areas. The report mentions an immediate ban on smoking in such places as shopping malls. Within shopping malls there are many types of businesses, including restaurants. If this recommendation is approved, does it immediately ban smoking in restaurants? If so, is that not a hardship for restaurants? Are not many of the arguments that were raised negated by the recommendation?

The report further says that after a particular period there will be a total ban on smoking in restaurants, although there is an allowance for some places to apply for an exemption. All small restaurants, one would assume, would be under severe hardship to meet those standards, and that is also of concern. One wonders what size restaurant we are talking about here.

Mrs Carnell mentioned that the industry has already accommodated rapid changes and that normal market forces are taking place. It was said that the committee received the names of over 100 restaurants in the ACT alone - in this large country town or small city - where smoking is already banned and people can eat without any concern for smoking. So market forces were obviously having the effect that market forces always have. If people want to go to other places, they have always been able to do that, and this is probably why most people in Canberra did not favour a total ban. They favoured an opportunity to have segregated areas in restaurants and, no doubt, in many other areas. I do not know what exactly the recommendations in this report will mean in those areas until I have read it fully and heard a couple of the questions answered, particularly about restaurants within malls. We have very large malls and much of our shopping goes on in these places.

MR MOORE (12.25), in reply: Madam Speaker, in closing this debate, I begin by answering a specific question from Mr Stevenson. The intention of the legislation is to ensure that there will be no smoking not only in malls but also in retail shops and business premises where goods and services are sold or delivered. That would take into account the whole range of malls. Certainly my intention in doing that was that, where a restaurant is in a mall, it would be considered as a restaurant and dealt with accordingly. I think that is worth clarification.

I would like, firstly, to go back to some of the comments made by the Minister for Health, which were all focused on the press release of the AMA. I saw it at about 10 o'clock yesterday morning and, having read it, I was delighted. Its headline reads, "AMA Urges Tough Stand on Smoking". Our committee has taken a much tougher stand on smoking than did the original legislation, so I was very pleased at that approach. This morning, having spoken to the media adviser to Dr Nelson, I feel quite comfortable about the AMA reading our report and about their likely response to it. We have taken a very sensible stance and, thanks to the willingness of Mr Lamont to provide us with a draft copy - it still is a draft copy - of the OH and S code of practice, I feel even more comfortable that we will have covered everything. It is that issue which more than anything demonstrates the inconsistent approach taken by Mr Berry.

We entitled this report *Clearing the Air*, and there is no doubt that that is its intention. Unfortunately, it would appear, with the intransigent attitude of somebody like Mr Berry, that we are not going to clear the political air; but I believe that that is just politicking. A really sensible approach to this would indicate that, with the occupational health and safety standards, we will be able to protect people in workplaces. Mr Berry stood up here only a few minutes ago and said, "Yes, we did take care of taverns and hotels and places like that because we are putting in place occupational health and safety standards and we are going to deal with it like that". Is there any reason why those standards will not apply to restaurants? None at all. So his approach is entirely inconsistent. Inasmuch as that will be a successful move for taverns, casinos and so forth, it will also provide a successful approach to restaurants, obviously.

Having read that report quite late in the deliberations of the committee, I felt even more comfortable that the occupational health and safety standards would also assist in developing community attitudes and a population and health approach. I find some irony in Mr Berry saying that I know nothing about a population and health approach. I have spent the last three years in postgraduate study on that very subject while he has been doing a very positive job on an issue like this. From his perspective, it probably appeared that the legislation would be adequate as a first step. We need to go much further, and that is what this legislation does.

When the AMA urges me and the members of the committee to take up this legislation, which we all passed in principle, and go with it, I feel very comfortable that I have gone even further than the AMA was recommending; but I have not proceeded with a simplistic approach. Mr Berry has suggested that we have been gutless and ignored health submissions, that it will be roundly condemned by all and that it will be an encouragement to smoke. These are the phrases that come from a reformed smoker. Mr Berry is a reformed smoker. I have never smoked. I would not have purchased two or three packets of cigarettes in my whole life.

Mr Lamont: That is cigarettes.

MR MOORE: To answer the interjection from Mr Lamont, I reiterate my statement. I have never been a smoker. The other point raised in the dissenting report and in Mr Berry's speech is that standard 1668 is not appropriate. Clearly it is.

More importantly, it is a living standard. It is changing as recommendations occur. The committee continues to change those standards and ensure that those standards are adequate to protect the health of individuals.

Madam Speaker, a shallow understanding, a simplistic understanding of the problem and the population and health solutions would dictate that we just ban smoking in restaurants. If a sensible and rational approach to the population and health problem of passive smoking - because that is what it is about - is what you are dealing with, then this committee's recommendations are appropriate. I would encourage the Minister for Health to look at the report carefully, to look at the numbers, and to come back and talk to us about it so that we can get the most sensible legislation for the people of the ACT and so that we can go beyond the politicking that has been part and parcel of the whole approach since this legislation was first tabled. Madam Speaker, it is with pleasure that I present the report, it is with pleasure that I stay associated with the report, and it is with pleasure that I look forward to the adoption of the recommendations in legislation by this Assembly.

Question resolved in the affirmative.

Sitting suspended from 12.31 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Health Budget

MRS CARNELL: Madam Speaker, my question is directed to the Minister for Health. In September last year the previous Minister for Health presented the 1993-94 Estimates Committee with a list of broad areas from which $3m worth of savings were to be achieved in this financial year. Mr Berry told the committee that the $3m in savings would be achieved through a range of initiatives in changed work practices and altered ways of delivering support services. I am sure that the new Minister has a list of those savings initiatives. How many of those savings have been achieved? Will we reach Mr Berry's $3m savings target or will the Minister confirm, as the Arthur Andersen report found, that the Department of Health is on track for a $9m blow-out once again this year?

MR CONNOLLY: Madam Speaker, they carp and they whinge and they grizzle and they groan. It would really be refreshing to hear some constructive suggestions on health from the Opposition Leader, but I fear that we will not. All it takes is money and the building of another hospital! They were both good ones. On the first sitting day after the Arthur Andersen report had been considered by government, we tabled it. We make no secret of this. We are getting on with the job of addressing the problems in ACT Health finances which have bedevilled every government of every political persuasion in this place.

Mr Humphries, perhaps mercifully, is not present to hear Mrs Carnell saying what a horrible thing a $9m budget blow-out is. It is only half as horrible as a $17m budget blow-out. Mr Humphries has been spared the embarrassment of having to sit there supporting you while you carry on about that. The fact is that, as Arthur Andersen has shown, for many years under successive administrations, Labor and Liberal, we had problems with the administration of ACT Health. As we made clear, we tabled the report - - -

Mrs Carnell: But I asked you about the $3m savings.

MR CONNOLLY: Mrs Carnell, when the Estimates Committee sits this year you can no doubt spend many a pleasant hour with me questioning me about all the savings measures that we proposed and all the outcomes. That is the appropriate time to do that. What I can tell you is that we tabled the Arthur Andersen report and that we do not resile from it.

MRS CARNELL: I ask a supplementary question, Madam Speaker. As the Minister has referred to the Andersen Consulting report, I ask: Is it not true that this report says that Mr Berry's $3m savings were poorly developed; included several that were based upon incorrect premises, resulting in unachievable savings targets; did not include strategies for achieving savings; did not have the support of management or unions; and were introduced three months into the financial year, ignoring significant staffing overruns already incurred at the time that the budget was announced? I ask the question today so that the same thing will not occur next year, Mr Connolly. Does the Minister now agree with the Estimates Committee that the current budget is, and always was, unsustainable?

MR CONNOLLY: Madam Speaker, I think that means "spend more", although it may mean "spend less". I am not sure whether we are being criticised for not spending less - that is, we are being criticised for not achieving savings targets - or whether we are being criticised for not spending more on the basis that our budget is unsustainable, which I think probably means, although it is sometimes hard to work out from Mrs Carnell, that we have set a budget too low. I do not quite understand the question; so I cannot give a sensible answer, apart from saying that, unlike the total wall of silence that met Labor when we were in opposition questioning Mr Humphries and Mr Kaine about health blow-outs, we have tabled the report of Arthur Andersen. That is pretty much the complete picture. It is a picture which presents us with some problems. We do not resile from that. We are not trying to gild the lily. We are saying that we, as a community, have a problem. As I have said repeatedly in public places, the identical problem would face you if you were Health Minister. This report lays out a path for improvement. This Government is rolling up its sleeves and getting on with the job.

Land Fill Sites

MR BERRY: It is nice to see that the old song "You Are Always on My Mind" is still in Mrs Carnell's mind. She should put "Wayne" on the end of that. Madam Speaker, my question is directed to the Deputy Chief Minister in his capacity as Minister for Urban Services. There have been a few reports about the Belconnen tip. I ask the Minister to give the Assembly and the community a few details about what the Government is doing to meet environmental standards at Canberra's land fill sites.

MR LAMONT: I thank Mr Berry for his question. Madam Speaker, the licensing of land fill sites in the ACT is a matter of great concern to this Government. In fact, the licensing of the two land fill sites in Canberra, at Mugga Lane and in West Belconnen, was achieved in 1992 following rigorous inspection by the appropriate authority in the ACT. I am able to say that both of the land fill sites in the ACT meet those rigorous standards. Madam Speaker, from time to time questions are quite properly raised about the management of our land fill sites. The Department has undertaken an environmental and engineering audit of land fill sites in the ACT.

I am quite pleased today to be able to provide to members, as I have, a copy of the brochure which has now been distributed for public consultation. It is called "Better Waste Management for Canberra". This pamphlet, Madam Speaker, will be part of a regime of activity which is being undertaken through ACT Government shopfronts over the coming week to outline the response of the Government to the environmental and engineering audit of our land fill sites. It covers such matters as the land fill and recycling practices, waste acceptance procedures, environmental issues and end use planning. It identifies the findings of the audit and outlines the actions that have been undertaken and/or will be undertaken.

Most importantly, Madam Speaker, this brochure implores the community to become more involved in these issues. If there are any ways that they believe we can improve upon the already exceptional standards which are being maintained at our land fill sites, we are encouraging them to put forward their suggestions. Madam Speaker, I also make this offer to Opposition members and, indeed, to Ms Szuty, Mr Moore and Mr Stevenson: If at any time they wish a personalised inspection of our two land fill sites, I am prepared to have it organised. Tours for some members, such as Mr De Domenico, can be spread over a number of weeks.

Woden Valley Hospital - Artworks Brochure

MR DE DOMENICO: Madam Speaker, first of all I thank Mr Lamont for this modest, non-glossy but appropriate brochure on waste management. My question has to do with brochures as well. It is directed to the Minister for Health. I refer the Minister to a brochure which was produced by the Health Department in late 1993. It is very glossy, unlike Mr Lamont's brochure. The brochure is called "A New Woden Valley Hospital Artworks Program: Stage 1 of 1993" and it was produced in full colour. This full-colour brochure was obviously very expensive to print and I understand that at least one community health centre sent its copies back to the Department of Health in disgust. Minister, do you believe that printing full-colour, glossy promotional literature on artworks is an appropriate use of scarce health dollars?

MR CONNOLLY: Madam Speaker, the Canberra community has just received the benefit of the biggest tranche of the $170m we are spending on redevelopment at the hospital. With the opening of the diagnostic and treatment block and the new entry and reception foyer, we have really turned the hospital around as it presents to the public. People now come through a new entrance point into the foyer, which is decorated attractively with artworks, most of which I understand were sourced to artists in the local region. Mr Berry, of course, had carriage of the portfolio at the time, but my clear recollection was that they were sourced to artists in the local region.

Those major capital works and those artworks are a significant community asset. The decision was taken to make the hospital present attractively. I have said, and I would not resile from the fact, that we should ensure that the maximum amount of every health dollar is spent on sick people in beds. On the other hand, I do not want the hospital to have the paint peeling from the walls. I do not expect hospital administrative staff to be wandering around in threadbare uniforms, sackcloth and ashes, perhaps beating themselves. The art is very significant art. I note that you think it is very nice. In order to present that to the community and let the community see the asset that they have, the brochure was printed in colour. A colour photograph of a tip, attractive and pleasant as ACT Urban Services tips are, does not add much to the sum of human knowledge, whereas black-and-white photographs of coloured art leave a little to the imagination.

Mr Humphries: Why have it at all?

MR CONNOLLY: Basically, in order to give to the community some feedback on the significant community asset that they have. Again, this shows the level of intellectual mastery of public health issues that this Opposition has. Madam Speaker, I think there is little point in saying any more.

MR DE DOMENICO: I ask a supplementary question, Madam Speaker. Will the Minister tell the Assembly exactly how much this brochure cost and how many were produced?

MR CONNOLLY: Madam Speaker, I will indeed do that. I will also get a response from the artists involved as to how they feel about having their art promoted in this way - I am sure that they are very pleased about it - and I will advise the Assembly precisely how much we paid each of the Canberra artists for their significant works.

Mr De Domenico: Just the brochure.

MR CONNOLLY: I like to keep you fully informed, if no wiser, Mr De Domenico.

Belconnen Bus Interchange

MS SZUTY: Madam Speaker, my question is addressed to the Minister for Urban Services, Mr Lamont. I gave Mr Lamont notice several hours ago that I would be asking this question today. I refer to the *Gazette* of 16 March, in which contract No. 16807 is listed. This contract is with the Snowy Mountains Engineering Corporation for passenger amenity improvements to the value of $10,280 at the Belconnen bus interchange. My question of the Minister is: Can he inform the Assembly of the nature of the passenger amenity improvements?

MR LAMONT: I thank the member for her question. I appreciate the advance notice so that I am able to more fully expand upon contract No. 16807. Madam Speaker, the Government and, indeed, my department, as announced already, are committed to upgrading these substantial public facilities. This contract covers the design documentation and construction supervision for pavement upgrading in the interchange. The platform pavement at Belconnen interchange has been uplifted in parts due to tree roots and has suffered general deterioration due to age. This has provided unacceptable surfaces for passengers, especially for the elderly and for mothers and babies, particularly for mothers with babies in strollers. Following design work, a further contract will lead to the repair of the pavement and the removal of the offending trees and their replacement with more suitable trees. Passengers will enjoy enhanced safety and amenity through the work. It is expected that the contract for reconstruction will be awarded before the end of June.

Ambulance Service

MR WESTENDE: Madam Speaker, my question is directed to the Minister for Health. The health activity report shows that in the March quarter the number of calls that were responded to by the ACT Ambulance Service in less than 10 minutes fell significantly in comparison with previous quarters. From the graph on page 7 of the report, I estimate a fall of about 5 per cent. Can the Minister explain how this life-threatening drop-off in the response time has occurred and what he is doing to ensure that this trend does not continue?

MR CONNOLLY: Madam Speaker, I will take advice on that and report back to the Assembly. It could well mean that the incidents that the Ambulance Service was responding to were a bit further away, so that it took more than 10 minutes to get there. From the briefings that I have received to date, I have certainly not been conscious of problems of a decrease in service in the Ambulance Service. Indeed, one of the remarkable things I have noticed in my wanderings about the hospital system and talking, both formally and informally, with everybody from the AMA, every other professional group and every union is that, while in the nature of things there is a tendency for everybody to have a whinge about everybody else, the one group that everybody heaps praise on is the Ambulance Service. The view of the doctors and the view of the nurses - the view of everybody - is that we have an outstanding Ambulance Service which is doing its job very well in the ACT, better than services anywhere else in Australia. I will take on Mr Westende's question and get him a sensible answer.

Adoption Information Service

MS ELLIS: My question is directed to the Deputy Chief Minister in his capacity as Minister for Housing and Community Services. Could the Minister please inform the Assembly of the degree to which the new Adoption Information Service has found acceptance over its initial period of operation?

MR LAMONT: I thank the member for her question. This initiative of the Follett Labor Government has now been in operation for just over a year. The Adoption Information Service in the Family Services Branch was set up as a requirement of the ACT Adoption Act 1993, which came into effect in July 1993. The new legislation gives adopted persons, birth parents and birth relatives and adoptive parents the right to access identifying information about each other once the adopted child reaches the age of 18. The legislation protects the privacy of persons affected by adoption through the mechanism of a veto on contact if desired by any party. The Adoption Information Service processes applications for information and contact vetoes. It also provides general information and counselling in relation to adoption issues and assists with reunions between adopted persons and their birth parents through a mediation service. Since July 1993 the AIS has received or facilitated 1,184 inquiries, 172 applications for identifying information, 38 veto registrations, 29 reunions, 398 phone counselling sessions and 95 face-to-face counselling sessions.

The changes to the law in relation to access to information appear to have been well accepted by the Canberra community. In the past 11 months there has been only one complaint about the way information has been conveyed, and this matter was debated in full in the Assembly on 2 March. Reunions facilitated by the unit have been described as varied in their outcomes. All parties, however, have stated that it has been better to know all, so that they can integrate that experience and get on with their lives. Madam Speaker, as I said at the beginning of the answer to the member's question, this service is greatly appreciated by those people who have been able to avail themselves of it. It is a great initiative of the Follett Labor Government, and I look forward to its continued success over the coming years.

State Bank of New South Wales

MR STEVENSON: My question is addressed to the Chief Minister. Six months ago in this Assembly I raised a matter of public importance about the State Bank of New South Wales. The reason I raised it is that the ACT Government uses the State Bank as our bankers. There are many Canberra investors in the State Bank. There are many clients of the State Bank in Canberra. The Chief Minister at the time, when I went into great detail, said - and I quote from *Hansard*:

... I will look very closely at the issues that Mr Stevenson has raised.

That was on 15 December last year. She said: I will have a close look at what he raised ... and if any further action should be necessary that action will be put in train. But we heard nothing from the Chief Minister. Over a month ago I raised the matter in a question without notice, and the Chief Minister asked, "Where are the details?". I said that I gave the details during the discussion of the matter of public importance, but she did not answer the question. Since that time I have heard nothing. Let me give some specific details. There is a high exposure - - -

Mr Cornwell: I raise a point of order, Madam Speaker. This is question time. If Mr Stevenson wishes to make a public statement, then I think he should ask for leave at a suitable time.

MADAM SPEAKER: As I have pointed out, questions must be brief, Mr Stevenson.

MR STEVENSON: It will be. The bank has a high exposure to bad debt, unreported. At the time I named a solicitor for fraud. Two days ago he was struck off the solicitors roll in New South Wales for fraud and stealing. Senior bank officers started a $2 company, and $216m was loaned. I accounted for $2m. What happened to the rest? Six months on, nothing has been done with any of these matters that I gave full details of. The question, yet again, is: Why not? This is a serious matter, certainly as serious as VITAB.

MS FOLLETT: Madam Speaker, from my recollection, the matters which Mr Stevenson raised in the course of that debate were matters to do with the State Government of New South Wales. My colleague Mr Connolly referred the papers to Mr Hannaford in the New South Wales ministry. That is the extent of the information that I have on the matter.

MR STEVENSON: I ask a supplementary question, Madam Speaker. This was why I spent time saying that they are the ACT Government bankers. Matters like this need to be looked into by the ACT. We have exposure there. People in the ACT have exposure there.

Mr Berry: I raise a point of order, Madam Speaker. What is the question? The statement we know about, but what is the question?

MR STEVENSON: The question is: Why has no action been taken by the ACT Government to protect people in the ACT?

MS FOLLETT: Madam Speaker, if Mr Stevenson wishes to raise with me specific areas where he believes that the ACT is involved, then I would be happy to take those matters up; but, as I say, my recollection of the matters that were raised in the debate last year is that they were within the New South Wales Government's jurisdiction, and they have been drawn to that Government's attention. But, if Mr Stevenson has anything in particular that he wishes me to follow up, then I would ask him to give me some more specific guidance on what it is that he wishes to know.

Health Budget

MR KAINE: I direct a question to the Treasurer. In answers to earlier questions on health matters, Mr Connolly has waved the Andersen report as though he had somehow pulled a rabbit out of a hat in solving the problems of the health organisation. Treasurer, I note that this report highlights the fact that in 1990 and 1991 the Alliance Government, having discovered that things were out of control in Health, commissioned a series of studies to find out what the problem was and to come forward with solutions. This report mentions them all up front and it mentions the action that was to follow. Yet this report also notes that little progress towards reducing costs has been achieved three years downstream and that there is a lack of commitment to, and emphasis on, achieving financial results three years after those inquiries were done and the recommendations were put on the table. Chief Minister, your Health Minister seems to have had little regard for this and has certainly given no direction from the top as to what should happen. I suggest that your new Minister is going to be no better. I ask you, Chief Minister: As Treasurer of this Territory, having observed the blow-out in the health budget through all those years, and having all these reports on the table, what did you do, as Treasurer, to make sure that, first of all, savings were effected and, secondly, there was a culture of commitment to, and emphasis on, achieving financial results?

MS FOLLETT: Madam Speaker, in answering Mr Kaine's question, I would like to refer to the Andersen report, which shows that by far the worst overrun in Health occurred in 1990-91. Madam Speaker, members might recall that that was continually denied by Mr Kaine, the then Treasurer, and Mr Humphries, the then Minister for Health. They purported month after month to know nothing about this, and they behaved very surprised when it was eventually proven, even to them, that the health budget under their control, so called, was completely out of kilter.

Madam Speaker, I acknowledge that, as Mr Kaine has said, when in government Mr Kaine and Mr Humphries commissioned a number of reports. One of those reports, of course, led to the termination of the then chief executive officer of Health. In other words, the main focus of the Alliance's activity was to find a scapegoat, whom they then got rid of. As we have seen, it had no effect whatsoever on the ability to control the health budget. So even your scapegoating activities were completely ineffectual.

Madam Speaker, as my colleague Mr Connolly has said, this Government commissioned the Andersen report. I regard it as a very valuable report. As I say, the Government has a commitment to implementing this report. I make no bones about the fact that the health budget has been difficult to control. Had Mr Kaine and Mr Humphries been a little less defensive when they were in government, they would have admitted that as well; but, of course, what they did was bury their heads in the sand and make no admissions whatsoever until their health budget blew out by some $17m - about twice the size of the problem we are facing this year.

Madam Speaker, if members opposite had any real concern for this issue, they would be a little bit more constructive. They know that they had even more trouble than we have had with the health budget. Every government in Australia is having trouble with its health budget. Instead, Madam Speaker, we get this constant allocation of blame, this constant carping and very little in the way of constructive offerings from members opposite. I think that we should all wish the Minister, and indeed the Department of Health, well in what is a formidable task before them.

Madam Speaker, getting control of this large budget is a task which simply has to be tackled. It is a very major part of the ACT's budget. For my part, I have willingly embraced the findings of the Andersen report, as has the Minister, and we will simply be getting on with it. I do not expect that to lead to an overnight 100 per cent improvement in the financial management of Health; but by taking a fairly pragmatic and staged approach to it, a sensible approach which is outlined in this report, I expect that we will eventually see major improvements in the management of the health budget.

Mr Kaine, as the chair of the Public Accounts Committee, has reported to this Assembly in the past on the improvements that have occurred in the management of the health budget.

Mr Connolly: And had to acknowledge that they were real improvements.

MS FOLLETT: He has acknowledged that real improvements are occurring. The Andersen report will be of great assistance in continuing that improved performance in Health, and I, for one, offer the Minister my full support in implementing that report.

MR KAINE: I ask a supplementary question, Madam Speaker. The Chief Minister is fond of harking back to 1991 and saying that the Alliance Government stuffed it all up and, to quote her, that we had our heads in the sand. I remind the Chief Minister that since then her Government has incurred nearly $30m worth of overruns. I now ask whether she has had her head deeper in the sand than the Alliance Government ever had, because she has done nothing about it.

MS FOLLETT: Madam Speaker, I hesitate to point it out to Mr Kaine, but we have been in government rather longer than he was. As I have said, throughout the entire course of every government in this place, the health budget has been difficult to control. I make no bones about that. What I am saying is that with this new report we have a new approach. Mr Kaine himself, through the Public Accounts Committee, has gone on the record pointing to the improvements that have occurred in the management of the health budget. I expect to see that trend continue, and I certainly wish both the Department of Health and the Minister well with the task.

Woden Valley Hospital - Eating Facilities

MR CORNWELL: Madam Speaker, my question is directed to the Minister for Health. This is not about the budget, you will be pleased to know; it is about people, Mr Connolly. I ask: Is it true that the only place a visitor or a member of the public can get a meal at Woden Valley Hospital is at the staff cafeteria, which is open to the public only from 8.00 am to 9.30 am and from noon until 2.00 pm? Is the Minister also aware that the available eating facilities for the public after these restricted hours actually consist of two fast food machines - unless you are providing edible art on the walls, Mr Connolly? For how long can this ridiculous situation go on, with the relevant union and the Trades and Labour Council holding the public to ransom by refusing to allow a brand new coffee shop to operate at the hospital and provide a badly needed service to Canberrans?

MR CONNOLLY: Madam Speaker, it does not surprise me that a man of Mr Cornwell's aesthetic sensitivity thinks that the only thing you do with art is eat it. The coffee shop has been a longstanding issue of dispute. It is a matter that involves a current ban by the Trades and Labour Council. It is a matter that my colleague Mr Lamont, as Industrial Relations Minister, and I have been directing our collective attention to. It is an area about which I would simply say, Mr Cornwell, "Watch that space".

MR CORNWELL: I ask a supplementary question, Madam Speaker. I am delighted to hear that the best two brains of the Government are directing their attention to this. Would the Minister also take account of the fact that at Woden Valley Hospital nurses are frequently obliged to take from food trolleys food intended for patients in order to give it to parents of children? Does he agree that we have the unacceptable situation that parents who want to stay with their children in the wards cannot otherwise get a meal, because nothing is open in the hospital? I remind you - you would be aware of this - that this is a regional hospital. People come from interstate and they might just want to eat while they are waiting there for their children.

MR CONNOLLY: Madam Speaker, I must confess that, when we were involved with Woden Valley Hospital during the birth of our child, on occasion a nurse offered me tea and a biscuit from a food trolley. I do not know whether that means that nurses were stealing food out of the mouths of patients to feed a parent. I think one can get a little melodramatic. Clearly, there is a problem in the fact that the coffee shop is not yet open. There have been some longstanding difficulties there. As I say, Mr Lamont and I, two Ministers in the best government in Australia - I think that is what you were meaning to say, having regard to the Evatt Foundation report - have our minds directed to the problem, and again I say, "Watch that space".

Legal Affairs Committee

MRS GRASSBY: Madam Speaker, my question is addressed to the chair of the Legal Affairs Committee, Mr Humphries. Mr Humphries, according to my records, since 1 July 1992 the Social Policy Committee has met 38 times and the Public Accounts Committee has met 56 times, and both have produced many reports. In this time the Legal Affairs Committee has met only 16 times and this year has met only three times. When will the committee meet to finalise its report on the Coroners (Amendment) Bill so that the Government can implement the legislation recommendations of the Royal Commission into Aboriginal Deaths in Custody and get on with its important legislation program?

MR HUMPHRIES: Madam Speaker, I welcome the opportunity to answer a question. I have just been reading the *Hansard* for 1991, so I will be able to relive some of the glory days.

Mr Connolly: "Now that I am in opposition, I can be honest", you once said.

MR HUMPHRIES: You must not interject when would-be Ministers are answering questions, Mr Connolly. It is very rude. You will get succinct answers from us. That is the difference between you and us.

Madam Speaker, the Legal Affairs Committee, of course, has the present difficulty that it has no secretary. Members will recall that Mr Ron Owens, the erstwhile secretary of our committee, has resigned.

Mr Lamont: Blame it on the secretary.

MR HUMPHRIES: Madam Speaker, Mr Lamont will get the chance to answer a question in a moment. I have the floor for the moment.

Mr Wood: Mr Owens left one month ago.

MR HUMPHRIES: I know that you enjoyed my being Minister when I was a Minister and you love to be able to ask me questions, but you have to make the most of this experience while it lasts.

I regret as much as anybody else the fact that we do not have a secretary at the moment. I certainly intend to find out why we do not have a secretary and when we are going to get a secretary. However, the Legal Affairs Committee has been doing considerable work in the period since Mrs Grassby or one of her colleagues raised this matter on the last occasion. There have been meetings of that committee. It has done important work and released a number of reports. If Mrs Grassby feels that enough time has not been spent on legal affairs matters, I suggest that she come to me and propose to me that we have a further meeting. As she well knows, in the absence of a secretary that is not particularly

convenient or easy to do. I suggest that, if she wishes to have further meetings, she suggest to me through the proper processes of the committee that there be further meetings. There is work before the committee, and Mrs Grassby knows full well that that work is before the committee. I suggest that, if she is serious about getting some work done, she come to see me about it.

MRS GRASSBY: I ask a supplementary question. Given the poor record of meetings of the committee you are chairing and in light of your criticism of Mr Berry's staffing budget, I ask: What are the reasons why the Assembly should not expect you to repay the money you have been paid as chair of the committee for work that has not been done?

MADAM SPEAKER: That question is out of order.

Petrol Station Sites

MR MOORE: My question is directed to Mr Connolly, Madam Speaker. It has to do with petrol pricing. It is an issue that I spoke to Mr Connolly about just before we came into the chamber. Mr Connolly, I refer to the letter that the Chief Minister wrote to BOMA in which she stated that a report was being prepared before you would proceed to open more sites for independent petrol operators. Would you tell us the results of that report and whether or not you would be able to make it available to members of the Assembly?

MR CONNOLLY: Thank you, Mr Moore. I will be making a statement on additional petrol station sites in a few minutes' time. I would like to let members know that, in the five hours since we announced this to the media, the price of petrol has fallen 2c. The existing major discounter has dropped its price 2c and as of 12 o'clock today was selling unleaded petrol at 69.9c and leaded petrol at 70.9c, and I expect that other retailers will match that, as they have done in the past.

Ms Follett's letter indicated that the Government would be seeking a report, which indeed it did. Obviously, this was a matter that was considered by the Government through the Cabinet process. That report - commissioned from a consultant with expertise on petroleum marketing, essentially an expert on how to go about setting up independent retailing sites - was considered by Cabinet. I see no reason why members should not see that through any committee process. I will have to have a look at it, because there may be some commercial-in-confidence aspects to it. I will also look at other material that supported it through the Cabinet process; but in general I see no reason why I should not be able to provide a copy of that report, or at least by far the bulk of it, to Mr Moore.

What the report basically indicated was that the presence of one independent operator had had an impact on the Canberra market; that there was a danger that if you had only one independent site, or only one independent operator holding a number of sites, you may not achieve maximum competition; that it was necessary to achieve competition among

the independents to keep the competitive price pressure of the independent outlets in order to get the majors to match them. That was the thrust of the recommendations. Cabinet's response was, I think, in accordance with that. I will look at the report with a view to releasing it as soon as I can.

MR MOORE: Madam Speaker, I have a short supplementary question. Is the presence of independents in the petrol market similar to that of Independents in this chamber?

MR CONNOLLY: Madam Speaker, in petroleum, unlike politics, the presence of independents is of enormous benefit to the public.

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

Fringe Benefits Tax

MS FOLLETT: Madam Speaker, on 11 May Mr Westende asked me a question relating to the increase in the ACT Government's liability for Commonwealth fringe benefits tax. I have a lengthy answer. Perhaps the shortest way of expressing it is to say that based on the total fringe benefits tax liability for 1992-93, the last financial year for which figures are known, the changed arrangements would result in an increase for the ACT of approximately $0.9m. However, program managers have had time to review the extent of fringe benefits and to take action to absorb the additional costs within budget estimates - which are adjusted for price indexation - and, where appropriate, allowances for growth. Madam Speaker, I ask for leave to have the full answer incorporated in *Hansard*.

Leave granted.

Document incorporated at Appendix 1.

Bicycle Paths

MR LAMONT: Yesterday, Mr Stevenson asked me a question in relation to bicycle path safety. I provided him with part of an answer. I would now like to provide him with the conclusion to that answer. Earlier this year the former Minister launched a bicycle strategy for the Australian Capital Territory called "Canberra Bicycle 2000", a copy of which I make available for you, Mr Stevenson. It was distributed throughout the Assembly at the time. I will get the former Minister to autograph that copy. I also have a number of stickers for your motor vehicle, including the one I now show you, which I will provide to you as well. In addition, I will make available to you - but I ask for its return - a copy of "Canberra Cycleways", which outlines what is reasonably expected of a person using such cycleways.

Secondary College Courses

MR WOOD: Madam Speaker, yesterday I promised to confirm for Mr Kaine some comments I made in question time about the recreation courses in our colleges. Secondary colleges run two distinct evening programs. There are academic Year 11 and Year 12 programs which offer accredited courses and are funded by the Department of Education and Training. Secondly, college P and C associations independently conduct community evening programs. Mr Kaine searched diligently through the advertisements, and I think he had to look fairly hard to find the course that he found. It is interesting to note that the course - fortune-telling and palmistry - did not run, in the end. That would not give you much confidence in the lecturer, would it? The cost of courses varies from subject to subject and college to college, running at between $40 and $130. The academic courses are generally very serious; the recreation ones, interesting. Mostly, they seem to focus on languages, computing and word processing, and there is a wide range of recreation courses. Mr Kaine, I have an application form. I will pass it over to you.

ANSWERS TO QUESTIONS ON NOTICE

MS SZUTY: Madam Speaker, I wish to raise a matter under standing order 118A. I have a question on the notice paper, question No. 1260, about the Hayes bushfire protection system. I asked the Minister for Urban Services a number of questions about that particular system. The answer was due on 13 May 1994.

MR LAMONT: Madam Speaker, I apologise to Ms Szuty. I do not have that answer with me, but I undertake to - - -

Mr Kaine: A pretty poor performance, Minister.

MR LAMONT: Do you really want to start? Madam Speaker, I undertake to have all of those questions answered by the close of business this day.

PRIVILEGE
Statement by Speaker

MADAM SPEAKER: I inform members that I have received written notice of an issue concerning the privileges of the Assembly given by Mr Humphries pursuant to standing order 71. As with the matter I referred to in the Assembly on 17 February, the matter raised by Mr Humphries relates to a submission lodged with the board of inquiry examining the ACTTAB-VITAB agreement. The document is entitled "F. Allegations and Questions Raised in the Assembly" and is under a cover sheet which indicates that it is the submission by the board of management of the Australian Capital Territory Totalisator Administration Board to the inquiry into the ACTTAB-VITAB agreement. The cover sheet is dated 11 April 1994. In his letter, Mr Humphries referred to the fact that the submission invited the inquiry to have regard to debates in the Assembly and suggested that the matter may merit precedence.

Members will recall that in my statement to the Assembly on Tuesday I referred briefly to the background of the privilege of freedom of speech and its importance. Under the terms of standing order 71, I must determine whether the matter merits precedence over other business and, if I decide that it does, I must inform the Assembly of my decision, and the member who raised the matter may move a motion without notice to refer the matter to the Committee on Administration and Procedures. I do not determine whether a breach of privilege or contempt has occurred.

Having considered the contents of attachment F as provided, I have concluded that the matter does merit precedence. As with my action in relation to the matter raised by Mr Connolly, I will be forwarding a copy of my statement on the matter to the board of inquiry. Mr Humphries may wish to consider this fact before making a decision to move a motion in accordance with standing order 71(e).

SUBORDINATE LEGISLATION
Paper

MR BERRY: Pursuant to section 6 of the Subordinate Laws Act 1989, I present determination No. 20 of 1994, made pursuant to the Taxation (Administration) Act 1987.

CROWN LEASES - CRITERIA FOR DIRECT GRANTS
Papers

MR CONNOLLY (Attorney-General and Minister for Health) (3.13): Madam Speaker, for the information of members, I present, pursuant to section 6 of the Subordinate Laws Act 1989, determination No. 22 of 1994 - Criteria for Direct Grants of Crown Leases, made pursuant to subsection 161(5) of the Land (Planning and Environment) Act 1991 and gazetted in *Gazette* No. S89, dated Wednesday, 18 May 1994, and the explanatory statement. I move:

That the Assembly takes note of the papers.

This relates to the three independent petrol station sites. I should have said to Mr Moore, in answer to his question, that the Government thinks that three independent petrol station sites is enough, and three Independent politicians is also enough. Madam Speaker, I have tabled a determination under the Land (Planning and Environment) Act 1991 and an accompanying explanatory statement. The purpose of the determination is to set out the criteria under which the ACT Executive may make direct grants of land for the conduct of a service station.

The Government has worked very hard to lower Canberra's petrol prices. Cast your mind back some eight months. Lack of effective competition in the petrol market meant that prices were around 75c a litre; petrol prices were quick to rise and slow to fall in response to wholesale price changes; and prices were inclined to rise at the beginning of

holiday periods. Today we have a whole new ball game. The ACT market has become more competitive. Downward changes in wholesale prices have been consistently passed on to motorists, and for the first time in a very long time in Canberra there is discounting at the pump.

These changes in market behaviour were kicked off when we entered into a licence agreement with Burmah Fuels Australia to enable it to operate the service station at the old government depot site on Wentworth Avenue, Kingston. Burmah Fuels approached the Government with a proposal to set up a retail petrol outlet in the full understanding that ACT consumers required more competitive retail petrol pricing, and that is precisely what they have got. The grant of the licence to Burmah Fuels was consistent with the recommendations contained in the report of the ACT Government Working Group on Petrol Prices. The Government is firmly committed to implementing those recommendations. Today I wish to formally announce a development which will sustain the gains we have made so far.

The working party considered that the competitive environment to allow market forces alone to regulate service station development did not exist in the ACT. It believed that government intervention in the marketplace was necessary to stimulate such an environment, and that land release policy was a legitimate mechanism in the short term for promoting change in market conditions. There were two aspects where the working party believed that land release policy could assist - in promoting the entry of independents into the market, and in reducing the incentive for speculation and unnecessary layers of ownership.

Accordingly, the working group, in recommendation 11 of its report, recommended that:

... the following short term intervention measure be undertaken to encourage the introduction of independents into the Canberra market:

Expressions of interest from independent operators should be invited in relation to the already-nominated sites at Gold Creek and Gilmore and additional sites, up to a total of 7 sites, to be nominated by persons or groups expressing interest.

These sites should meet planning requirements as recommended by this Report and should be offered at market value by direct grant or restricted auction.

A maximum time frame of six months should be set for the receipt and assessment of expressions of interests and the grant of sites.

The eligible grantees would have to be owner-operators and not own more than 3 sites already in the ACT.

The market change which followed the introduction of Burmah in Kingston has been a convincing endorsement of this policy approach. If objective proof is needed, look at the March quarter inflation figures. On average, petrol prices in other capital cities dropped 0.22 index points; whereas in the ACT petrol prices dropped 0.4 index points, which had a significant effect on Canberra's inflation rate.

In order to further this recommendation, the ACT Planning Authority has now identified a number of sites as being available immediately for the development of service stations. These are Hume, block 23 section 2, at the corner of the Monaro Highway and Sheppard Street; Belconnen, part of block 1 section 14, the corner of Coulter Drive and Luxton Street; and Phillip, block 1 section 53, being the corner of Hindmarsh Drive and Athllon Drive, the old depot site. In implementing recommendation 11, we propose to lease the sites as part of a direct grant process under section 161 of the Land (Planning and Environment) Act 1991. We have chosen this path, rather than release the sites by auction, because we do not believe that raising revenue should be the sole determination in this situation. With lower petrol prices, consumers will save money which, in turn, will be injected back into the ACT economy.

In its report the working group identified the high land prices previously paid for sites under Commonwealth policies as a significant factor in Canberra's high petrol prices. The Government is concerned to ensure that this situation does not continue. The chair of the working group recently sought advice from Mr John Coubrough of Joco Property Marketing Services, an independent consultant to the oil industry and local government throughout New South Wales, who has an intimate knowledge of the ACT industry, having had 24 years' experience in marketing and property management with Mobil Oil (Australia) in the ACT. Madam Speaker, the extensive quote that I will read is part of the report that Mr Moore asked about, and I would expect, in due course, that the rest of it will be published. Mr Coubrough advised that:

Foremost ... is the lowering of land prices levied in the ACT for service station outlets and the outrageously high returns expected by developers on their investments. Major oil companies, Shell, BP and Caltex are paying rentals which are 2 or 3 times what they would be in other States and represent returns to the investor of up to 40 per cent or more on purchase and building costs at sites in Kambah, Kaleen, Chisholm and Tuggeranong. These incredible returns are being funded by the petrol buying public of Canberra. As an example, the average return expected from gilt edged commercial property in all parts of Australia, including the ACT, is around 10 to 11 per cent.

The Government sees no reason why the cost of land for service stations in the ACT should be higher than that payable for comparable sites in other capital cities. No-one involved in the petroleum industry can argue that high entry costs are in their best interests. The Government will order a proper market survey of the interstate capitals, especially Sydney, and set the prices for the new sites accordingly. The Government has not taken this decision lightly and is fully cognisant of the effect on the valuation of existing sites and the resultant possible loss in some government revenue through reduced land taxes and rates. However, the gains far outweigh the losses. While a reduction in the valuation of a service station of, say, 10 per cent will result in a $190,000 reduction in

revenue, a 3c reduction in the price of petrol will result in some $9m being returned to the pockets of ACT consumers and small business. In this instance we believe that it is more important for the money to remain in the consumer and small business pocket rather than in the coffers of the Government.

Madam Speaker, some will scurrilously suggest that our actions will adversely affect investor confidence in the ACT's leasehold system. The fact is that this is a targeted change in Government policy affecting only the petrol market. The recently released draft report on petroleum products by the Industry Commission stated at page H12:

The retail petrol market in Canberra is unique in Australia because of Government policies affecting the location and siting of service stations.

May I remind members that these policies were inherited from the Commonwealth upon self-government, and now we, as a responsible Government acting in the public interest, need to adopt a unique solution to correct this unique problem. May I also remind members that the working group's recommendation 11 was directed at making a once only intervention in the market to complement its other strategies - for example, recommendation 10, which calls for the acquisition of sites for service station development to be left to the commercial judgment of the market, with service stations being released as part of general commercial land, not as specific sites. The Government has also accepted this recommendation and we will now move quickly to implement the working group's overall strategy so that all participants in the market may benefit.

Madam Speaker, I would now like to return to some specifics about the release of the service station sites I have announced. The Government proposes to publicly invite expressions of interest from all persons who can bring themselves within the criteria specified in the determination I have tabled. In summary, the criteria provide that sites will be released only to applicants who will operate the service station themselves and who are independent of the five major oil companies, their parent or subsidiary companies, their agents or employees; whose infrastructure is not owned by a major oil company; who will give a commitment to act competitively in this Territory; who can demonstrate the ability and the financial capacity to remain in the ACT market as a competitive force; and who will not enter into a franchise agreement with a major oil company.

If an applicant is able to meet these conditions, the applicant will also have to agree, as part of the lease agreement, that for a period of 10 years the applicant will not sell, transfer or sublease the site to a person or company other than to another eligible independent, except with the permission of the Minister; and if, within a period of 10 years, the applicant is taken over by a company that would not be an eligible independent, the acquiring company must divest itself of the site to an eligible independent within a timeframe agreed by the Minister. These are very rigorous conditions indeed, but the Government is concerned to achieve the greatest level of competition and the maximum benefit to consumers.

The recommendation of the working party spoke of a release of up to seven sites. Only the three sites I previously mentioned are being released to the market at this time, as we believe that this will be sufficient to give the market a long-term stimulus. As I indicated, this we see as a once only intervention in the market. We would not expect to go through this process again. Sites at Gold Creek and Gilmore, Isabella Drive and Monaro Highway, referred to in recommendation 11, are not presently available, as changes to the Territory Plan would be required for their release separately as service stations. Planning work will, in any event, continue on these sites to enable their eventual operation as service stations either separately or in conjunction with tourist developments.

There are a number of other matters I would like to mention. First, no guarantee is being given by the Government that the sites purchased by successful eligible independents will be exclusive of service station sites in their immediate area. Subject to planning, traffic and environmental requirements, other service stations may open in the future in direct competition with an independent site. Secondly, I wish to make it clear that successful eligible independents will have to meet the normal environmental standards prescribed under ACT law. There will be no diminution of such standards. I also want to make it clear that the sites will be subject to normal land tax and rates and other charges.

Madam Speaker, this Government stands resolute in its determination to see the ACT community get a good deal when buying petrol. We will continue to do our utmost to ensure this result through the implementation of the recommendations of the working group. I commend the determination to the Assembly.

Question resolved in the affirmative.

CENTENARY OF FEDERATION ADVISORY COMMITTEE
Ministerial Statement and Paper

MS FOLLETT (Chief Minister and Treasurer) (3.24): Madam Speaker, I ask for leave of the Assembly to make a ministerial statement on the presentation made to the Centenary of Federation Advisory Committee.

Leave granted.

MS FOLLETT: Madam Speaker, I take this opportunity to inform the Assembly of the presentation I made to the Centenary of Federation Advisory Committee on Monday, 16 May, at Old Parliament House. The advisory committee was formed by the Council of Australian governments last year to advise all Australian Governments on how best to prepare for and commemorate the centenary of Federation. In preparing the ACT's submission, the Government has been aware of the potential danger in overemphasising the historical elements of the centenary of Federation at the expense of using it as an opportunity to look forward, and at the risk of perhaps marginalising those groups in our society excluded from the Federation festivities 100 years ago. The creation of the Federation ought not to be seen as an event that ended 100 years ago. It is an ongoing process.

In 2001 Australians should place at least equal emphasis on being able to look forward and to consider how our federal structure can be improved, how we can better present ourselves to the world and to the region in which we live, and how successive generations can be better equipped to build upon the achievements of Federation. The commemoration of the centenary of Federation therefore must be an ongoing process. It must be supported by a program which represents all Australians, and it must leave enduring benefits for future generations. While the ACT was clearly not a foundation member of the Federation, it was a specific creation of the Federation process. It is the symbol and practical manifestation of the unity of the Federation.

The central theme of the ACT's submission to the Centenary of Federation Advisory Committee is that the commemoration process ought to acknowledge Canberra as a major achievement of Federation in terms of its nature as a planned city, created for the administration of the Federation, and as Australia's premier inland city which sets international standards in relation to urban design that complements the natural environment. These are clearly matters directly relevant to the terms of reference of the committee in that they are "national achievements of the first hundred years of Federation", and practical examples of the "ways in which an enhanced sense of national unity, purpose and confidence about the past and for the future" have been developed.

On this basis we should challenge the view expressed in Victorian submissions that "Melbourne is to the centenary of Federation as Sydney was to the bicentenary". The bicentenary was, in fact, heavily criticised for being too focused on Sydney. The greater the focus on any one city, the weaker the relevance of the centenary to all Australians; and the greater the focus on the past, the weaker the relevance of the centenary to all Australians. If the commemoration of the centenary is to be regarded by all Australians as an inclusive and relevant process, it must avoid any accusations of favouritism, parochialism or bias.

To achieve this, the ACT proposed that commemorative events and projects be judged on four criteria. These are the extent to which they are inclusive of all Australians regardless of gender, ethnicity, religious preference and so on; recognise and value the role cultural and ethnic diversity has made to the Federation; are able to provide a lasting educational or commemorative value to the nation; and fundamentally enhance the well-being of all Australians into the next 100 years. The Government's submission states that a commemorative program should properly recognise Canberra as the embodiment of the ideal of Federation and national unity, and as a great achievement of the Federation process itself.

In recognition of these criteria, the ACT Government included a number of specific proposals - in fact seven - in its submission to the committee, and I would like to mention them briefly. We specifically propose an early public announcement of full Commonwealth funding for the construction and completion of the National Museum of Australia, prior to the centenary, on its present Yarramundi site. The ACT Government has consistently offered its support to the project, agreeing to support the infrastructure development associated with the museum. The National Museum is the single most noteworthy gap in Australia's national and cultural treasures. Its early completion should be a national priority so that it will be a major attraction in the commemoration program.

A second proposal is for the building of Catherine Spence House in Canberra as the national headquarters for women's organisations. Catherine Helen Spence became Australia's first woman political candidate when she stood as a South Australian delegate to the 1897 Constitutional Convention. Unfortunately, and amid some controversy, she failed in her attempt to give Australian women some voice in the emerging Federation. One hundred years later, women still do not have an adequate voice in national affairs. The construction of Catherine Spence House would provide an enduring and worthwhile practical benefit to Australian women, and would emphasise the inclusive nature of the commemoration of the centenary of Federation to a group of Australians effectively excluded in 1901.

The third proposal is for a national undertaking to complete the various communication links to the national capital. Australia is probably unique among the nations of the Western world for the physical isolation of its national capital. In a federation it is vitally important that the national political capital should not be isolated or remote. Our submission therefore includes a proposal to complete the road links to the national capital to national highway standard, and to construct a high-speed rail link between the national capital and the major commercial cities and major population centres of Australia. Also proposed was the upgrading of the national capital airport to international standard.

Our fourth proposal relates to the clean-up of the Murray-Darling rivers systems. This project is probably the single most dramatic and worthwhile environmental project which our country could undertake over the next decade, and I fully support the South Australian Government's emphasis on its importance. As a key centenary project, the ACT proposes an international design competition for development of major native gardens. The gardens would commemorate Sir Henry Parkes's role as the Father of Federation, thus being called the Henry Parkes Federation Gardens. The designs would be consistent with Walter Burley Griffin's original plans for the capital, also encompassing the latest innovations in landform management practices and incorporating a major new architectural centrepiece, a Federation monument. The competition would bring further international attention to Australia in the lead-up to the centenary. The gardens would become a physical landmark for successive commemorative events and a symbolic centre to the nation and its capital.

The sixth proposal concerns the years leading to the centenary. These should be used as an opportunity to consider appropriate options for the annual commemoration of the formation of the Federation. Options should include the possibility of a Federation Day which would reflect on the achievements of the Federation and on the work of the founding Australians and resolve future national directions, goals and objectives. The ACT Government's submission includes a number of specific elements that could be considered in the context of a national civics education program. They include an annual national youth parliament, the drafting of an official history of Australia's contribution to public administration, and knowledge of the Constitution.

Mr Temporary Deputy Speaker, the process of focusing on the centenary is a valuable exercise in its own right which provides the opportunity to think beyond our usual parameters and our own day-to-day concerns. The report the advisory committee eventually hands to the Council of Australian Governments will be both creative and worth while, and will provide significant challenge to all heads of government. The Government is proud of the content of our submission, and we are very pleased with the reaction to it by the Federation Advisory Committee. I present a copy of this statement, and I move:

That the Assembly takes note of the papers.

MRS CARNELL (Leader of the Opposition) (3.32): Mr Temporary Deputy Speaker, I would like to use this occasion to speak on the submission that the Opposition gave to the Advisory Committee on the Centenary of Federation and also to support, with great pleasure, the Chief Minister's submission, as I did at the committee hearing. The occasion of the centenary of Federation should symbolise an important step towards national and international recognition of our political, social and economic maturity. It should be both a celebration and a lasting reminder of our development as a progressive democracy over the course of two remarkable centuries of change and growth. Every Australian and every visitor to our country, regardless of age, should be encouraged to participate in events marking the centenary.

As other organisations who made presentations to the committee spoke particularly on a national perspective, the submission that was given by the Liberal Party focused very definitely on the involvement of Canberra and its citizens in this important event. It is interesting to note, and I suppose that we all do, that the earliest strategic vision for Canberra emerged in the Constitution of 1901. It provided for the establishment of a national capital under the control of the new Federal Government. The purposes for which this national capital was established were threefold. They were, first, to serve as a symbol for the union of Australian States; secondly, to provide a neutral forum in which the business of the nation could be undertaken without undue influence from any one State; and, thirdly, to provide a showcase for Australia's new maturity and ability to the world. These principles were very much in evidence when the original design for Canberra was established, and they have remained a strong, guiding element in the city's development ever since.

Our submission, very unashamedly, was parochial. It really did focus totally on Canberra. We believe that it is very important that Canberra become known not only as a place where politicians live but also as the national capital of which every Australian is proud. It is a unique opportunity for us to achieve that. It should be a chance to promote greater recognition internationally of our city as the capital. I am sure that everybody who has been overseas recently, as I have, realises that, when you say that you are from Canberra, people say, "Where?". The centenary of Federation is a unique opportunity for us to promote our capital, our city, Canberra, in an international context. We contend that Canberra should be the focus of the Federation celebrations because, as the Chief Minister said, Canberra is the only child of Federation. The decision to make Canberra the planned capital of Australia was born out of a desire to bring this country together, under one flag and one constitution. Our city embodies this attempt by the architects of Federation.

We do not believe that the centenary of Federation entitles Canberra to some sort of billion dollar wish list paid for by other States. We do submit, however, that the year 2001 is an appropriate timeframe by which we should mark the completion of major infrastructure projects which would see the national capital linked to other major population centres. In that, our submission was very much along the same lines as the Chief Minister's. We spoke about road links and we spoke about a high-speed train service with Sydney. We also spoke about the need for decisions to be made on Acton Peninsula and on Yarramundi Reach in the very near future so as to ensure that the National Museum, on whichever site it is built, will be open in time for 2001, the centenary of Federation.

Like the ACT Government, we also supported the view that 1 January 2001 should be known as Federation Day. Federation Day must be a celebration, again, as the Chief Minister said, for all Australians. Unlike Australia Day, Federation Day did not bring with it the animosities of some of Australia's early history. To this end, it must be part of a multicultural festival as well as incorporating a major component focused upon the contribution of Aboriginal culture and society to modern Australia. Canberra does already have a unique multicultural flavour. Having Canberra as a focus for Federation Day celebrations is complemented by the presence of most of the world's embassies in this city. I am sure that they would have a great deal of pleasure in contributing to a multicultural festival associated with this celebration.

Like the Chief Minister, the Opposition brought forward a number of specific events that could be part of the celebrations. We suggested a special joint sitting of all Federal, State and Territory parliaments at Parliament House to mark this celebration. We suggested that this be a convocation with leaders of neighbouring Pacific and Asian nations. We suggested that national institutions, such as Old Parliament House, the National Gallery, the National Library, the National Science and Technology Centre, the Film and Sound Archive, the War Memorial, the Institute of Sport and, of course, the proposed National Museum should compile and promote special displays to mark Australian and Aboriginal achievements over the last 100 years, as a celebration of what we have become as a nation and what we could become in the future. These institutions, we believe, should be open free of charge for this period to symbolise the fact that they do belong to the people of Australia and they do represent the pinnacles of achievement of our cultural, sporting, scientific and political history. We also suggested that, as 2001 is the eightieth anniversary of the Royal Australian Air Force, this could be a centrepiece for celebrations in Canberra.

We suggested, contrary to Mr Ian Warden's view on balloon festivals, that we believe that a hot-air balloon festival, featuring possibly 100 balloons to mark 100 years of Federation, would be useful for the national capital. We put this forward because we believe that part of these sorts of celebrations is their attractiveness to the media in terms of photographs. If we want photographs of Canberra to be everywhere, they have to be attractive. We suggested that this might be a way to ensure that pictures of Canberra were not only on the Canberra phone book but on every phone book, once they are out. We perceive that that is one way we can ensure that pictures of Canberra are on every television station around the world.

We also believe that something very central to Australia is our sporting achievements. We suggested - this showed somewhat of a bias in the Liberal Party offices - that the centenary of Federation should be marked by a one-day cricket competition involving all the Sheffield Shield teams, and including the Northern Territory and the ACT, at the Manuka Oval. There is somewhat of a bias on this side of the house. We also suggested that we should come together in celebration with concerts by Australian performers in the various areas of music, including Aboriginal artists and multicultural artists. That could be based around the foreshore of Lake Burley Griffin.

Mr De Domenico: And country and western, too.

MRS CARNELL: I did not say it, but I intimated it. We did go on to suggest, not for the first time, that we should recognise the year 2001 as the Australian year for science and research. We believe strongly that science and research are regularly overlooked, and they are the future of this nation. We suggest that this year be looked at as a way of really pushing the tremendous achievements Australians have made in this area. We went on and suggested a number of other projects; but, to save time, I ask for leave to table our paper.

Leave granted.

Question resolved in the affirmative.

DEPARTMENT OF HEALTH
Discussion of Matter of Public Importance

MR TEMPORARY DEPUTY SPEAKER (Mr Westende): Madam Speaker has received a letter from Mrs Carnell proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

The need for the ACT Government to urgently re-assess the way it has managed the Department of Health for the last three years.

MRS CARNELL (Leader of the Opposition) (3.42): Mr Temporary Deputy Speaker, once upon a time there was a crisis in health management, a crisis that the Government overlooked; but that was until last Saturday. Until last Saturday everybody thought that Canberra's waiting lists for elective surgery were double the national average. We believed that two out of every five patients were waiting longer than six months for surgery. We also knew that our public hospital costs were 30 per cent higher than the national average, and had been that way for at least three years, and that the health budget was heading for another record blow-out of some $9m. But last Saturday that all changed. I encountered what was a revelation for me. Lying on the front lawn of my home was the *Canberra Times*. I picked up the paper from the front lawn and saw a simple little headline which read, "Connolly working to cure the poor state of health". Of course, that changed the world.

Mr Connolly: I bet that ruined your whole weekend, Mrs Carnell. I bet it threw you right off your weekend.**MRS CARNELL**: No; far from it, Mr Connolly. There was music. There was merrymaking. We were dancing on the lawns. The sun shone and the birds sang, Mr Connolly, because we knew that Uncle Terry was in charge.

Mr De Domenico: That is right. Everything was going to be all right. The world's best Health Minister!

MRS CARNELL: Everything was going to be all right. We realised that Uncle Terry, the new health fairy with a magic wand, would fly down and fix the health budget, fix waiting lists, fix the three-year mismanagement of his own Government. Unfortunately, Mr Temporary Deputy Speaker, after going back inside, I opened the Andersen report and the latest health activity report for the March quarter and - surprise, surprise! - Canberra's waiting list for elective surgery was still double the national average. Actually it is worse. Two out of every five patients are still waiting for longer than six months for elective surgery; our hospital costs are still 30 per cent higher than the national average and are the worst by far in Australia, including at teaching hospitals; and the budget is still heading for another record blow-out.

Mr Temporary Deputy Speaker, my point is simply this: To bring our health system back from the brink of disaster will take much more than a newspaper column and flamboyant media releases, and much more than just a change of Minister. It will require a complete change of philosophy for this Government, a change which a majority of its members have certainly been unwilling to embrace in the past. This matter of public importance today, Mr Connolly, will signal the end of your five-week so-called honeymoon in Health, although I think it finished somewhat earlier. *(Quorum formed)*

Mr Connolly, your willingness to listen and to consult with health professionals when compared to your predecessor is to be congratulated.

Mr Connolly: If I had known that you were going to say that I would not have called for a quorum.

MRS CARNELL: I was getting to the good bit. You will have to do a lot more. You will have to do a lot more than just have an office at Woden Valley Hospital and arrange photo sessions with doctors and nurses if you really are to make a difference. Certainly, the Minister's PR machine is far slicker than that of Mr Berry's; but, unfortunately, the song must not remain the same. I am sure that you know the words to that one.

So far, Mr Connolly seemingly has embraced the new Arthur Andersen report, but it is worth putting this $180,000 exercise into proper context. This is the fifth report into the Territory's Health Department in five years, and all five reports have managed to come up with similar conclusions and recommendations. It is interesting to note that the fourth report was by Robert Hirth, a partner in Arthur Andersen, who acted as the ACT's chief financial officer for seven weeks. Mr Hirth produced a 135-step plan for improving the financial position of the department. All the reports have highlighted the inadequacies of

Health's management practices, financial systems and controls, the budgetary process and cost reduction initiatives. Five reports, five years, Mr Berry, Mr Connolly and Ms Follett, all part of the Government, and what do they have to show for it? Very little. There has been a marked lack of enthusiasm to face up to the realities of health administration in the 1990s. To quote the latest Arthur Andersen report:The system costs remain high and financial management and budget performance have not significantly improved. The system costs and financial performance can be summarised as follows:

. Costs of ACT Health and Woden Valley Hospital in particular remain significantly above interstate benchmarks.

. ACT Health has overrun its allocated budget, outside Business Rules, for each of the past three years and is expected to do the same in the current year.

I repeat, "outside Business Rules". I would like Mr Berry to be here to hear this. Do you remember all those times that Mr Berry tried to lecture me on how he had stayed inside the business rules?

Before I go any further, I would like to comment on one aspect of Mr Connolly's approach. Suddenly the failure to reform our health system has become a community problem and, according to Mr Connolly, one that the Opposition should not talk about because it is not helpful. Mr Connolly, you cannot shove the blame onto the community or anybody else. The failure stops right at your Government's door because it dug itself into a hole. Now it expects Canberrans to throw down a rope and pull it out. Do not forget that for three years some of us have had to sit here and listen while every member of your Government, including you, walked into this Assembly day after day and proudly told us that the health system was a jewel in the crown of the Follett Government, to quote one of your speakers. Some jewel! Let me remind Mr Connolly of Arthur Andersen's view of the Follett Government's management of the last health budget. The Andersen report said:

The 1993-94 savings initiatives were:

. poorly developed, including several that were based on incorrect premises resulting in unachievable savings targets.

. did not include strategies for achieving savings targets.

. did not have the support of management or unions.

. did not account for all savings required to meet budget plans.

. were introduced three months into the financial year, ignoring significant staffing overruns already incurred at the time the budget was announced.

. The 1992-93 overrun was not well understood and could not be fully accounted for. Therefore, it was virtually impossible to identify the problems the 1993-94 Budget had to overcome.It is very difficult to bring down a budget if you do not know why you overran last time. That has to be one of the most damning indictments of this Government's performance in Health, or, for that matter, in Treasury. For the Minister to try to absolve his Government of blame now is pretty gutless.This Opposition will continue to focus closely on the Government's mismanagement of the Health Department because it is simply our duty to do so. We do not believe that Mr Connolly has the guts to make the changes. Face facts, Mr Connolly. The problems in our health system are a symptom of this Government's inability to cope with budgetary management or economic restructuring. They are not the fault of one Minister, although I doubt that that comment will make Mr Berry feel all that much better. The management of Health was not just Mr Berry's mission; it was that of the Government. Let me read to you from the ALP's platform on health, the same platform it took to the last election. It says:

Labor will continue to maintain, improve and provide resources to secure a high quality public hospital system in the ACT.

That was the manifesto. That was their challenge. They failed, and failed very miserably. For three years - three interminably long years - this Government has run Canberra's health system very much into the ground. I am sure that Mr Humphries will say more about that.

I want to run through some of the things that are in the Arthur Andersen report. On page 11 it found that ACT Health has a high cost system compared with national standards. On page 13 it says that the Commonwealth Grants Commission data shows that the ACT needs to address its expenditure overruns and health expenditure levels, given trends in Commonwealth funding. That is hardly new information, but this report suggests that the ACT is not capable of making funding cuts this year because their management is not up to it. On page 14 the report says that the ACT has the highest cost per patient in comparison with all States. On page 20 it says that the structure of ACT Health, with its inefficient division of responsibilities, inhibits good financial management. The list goes on. Every page has another damning bit.

Now, we have a new Minister, but has he the political will to embrace the kinds of reforms we need? Only time, and, unfortunately, I think, factional pressure, will tell. I believe that there are two major challenges facing Mr Connolly in his approach to the health portfolio. The first is easy. The second, admittedly, will take some courage and a lot of pragmatism - something I have seen from the Attorney-General. First, he will earn my respect and a lot more of my party's support on health issues if he realises that fudging the figures or trying to pull the wool over our eyes - as has happened in the past - will not work. The second challenge is to start making some real decisions, some hard decisions, to show the way ahead for his new Health Department and our public health system.

The Minister has asked that the Opposition come forward with ideas for Health. We are happy to come forward with some suggestions. I would encourage the Minister to move immediately to accelerate the introduction of casemix funding for the ACT. Put simply, casemix funding, as I am sure the Minister knows by now, allows hospitals to be paid for what they actually do. If a hospital treats more patients it gets more money. The results, from looking at the Victorian situation, are very clear. Casemix provides financial incentives, Mr Connolly - something that Health desperately needs.

Unions and management at the hospital should also be encouraged to hammer out an enterprise based agreement for the whole of the hospital. This would permit greater flexibility in both rostering and leave arrangements, and provide an award that would better reflect the particular industrial circumstances of our hospital. I have already supported Mr Connolly in his decision to approve additional private hospital beds in the ACT, but if that is as far as it goes we have been treated to a typical Connolly media exercise. The Minister must entertain hopes for a closer working relationship between the private and public sectors in the ACT for him to have a chance of succeeding. He must make some real changes. Mr Connolly should do what his predecessor could not do, and that is to put management of our health system first and ideology last - in fact, ideology nowhere. No-one interested in fixing our health system views public and private health in the same simplistic way as Mr Berry did any more, whichever government we are talking about.

MADAM SPEAKER: Order! Your time has expired.

MR CONNOLLY (Attorney-General and Minister for Health) (3.57): I must say at the outset that I was pleased, Mrs Carnell, that I upset your Saturday morning when you read the good news story about Health in the *Canberra Times*. It is my objective, Mrs Carnell, that on many more of your Saturday mornings you can fume over your cup of coffee as you see yet another good news story about ACT Health.

Madam Speaker, when I saw the topic of the MPI on the paper this morning I hoped that we would have a non-partisan constructive debate on ways forward for ACT Health; but unfortunately we tended to hear, once again, the litany of complaint and grizzle about ACT Health. Every opposition blames every government about the woes of ACT Health. I was taken to task for my statement that we have a community problem. The fact is, Madam Speaker, that we do. We made a statement in last year's budget that we would get a major management consultancy firm to come in and look at ACT Health. We did that with Arthur Andersens, who are internationally well regarded. I tabled the report at the earliest opportunity. The principal recommendation of Arthur Andersen, the first action that they recommend that we take, is to establish what they called an interim financial board. I announced the other day that the resource management committee would be formed, and I ran through its personnel. It matched what Arthur Andersens recommended, including a principal of Arthur Andersens. I am pleased to advise the Assembly that, while members were enjoying their sandwiches, I was racing out to the hospital at lunchtime today for the first meeting of the resource management committee.

I am pleased to advise Mrs Carnell that a member of the support team for that committee is the officer whose responsibility it is to develop the casemix strategy. I say that because casemix looks as though it is becoming the issue that the Opposition are raising as the magic wand. Mrs Carnell criticised me, saying, "Now that Connolly is in charge there will be a magic wand and Health will be fixed". I very clearly said that that is not the case; there is not a magic wand to fix Health. Casemix is a useful tool that most States are looking at very carefully. The Victorian Government has embraced it as the be-all and end-all. If you look at the debate in Victoria and if you look at the material that has been published in the *Medical Journal of Australia* - I saw the paper that the Australian Consumers Association have published on it only very recently - there is a real debate as to the effectiveness of the Victorian model.

Casemix, Madam Speaker, is a tool that is probably most effective in comparing hospital and hospital. In Victoria there are probably 30 or 40 public hospitals across the State, or perhaps even across the metropolitan area, ranging from the huge major hospitals, the mega hospitals like Royal Melbourne, through to some fairly small facilities. Casemix seems a very effective tool to try to compare product out of the various hospitals, but it still has use in a single or principal hospital and a minor public hospital context like we have. We are working on it. We expect it to be operational some time during the next financial year. At the moment it is not operational and alive; but we are using casemix as a management technique, and the casemix expert - our person who knows all about casemix - is providing some support to our resource management committee.

Arthur Andersen said that for 10 years or more we have had a problem with ACT Health being unable to control its budget. On page 17 of the report, going back three or four years, we had an overrun of some $13.99m in 1991, representing 5 per cent of the budget; an overrun of $11.9m in 1992-93; and a projected overrun for this year of $9.34m.

Mr Humphries: How much?

MR CONNOLLY: They are projecting $9.34m. I can play a political game and say, "The overrun that we have is only $9m compared to $13.9m or $14m when Mr Humphries was Minister; that our overrun is only 3.6 per cent compared to 5.6 per cent when Mr Humphries was Minister; that of our overrun only 1.8 per cent is outside business rules, whereas 3.6 per cent was outside business rules when Mr Humphries was Minister"; but, Madam Speaker, that would be fairly trite and fairly pointless. The point I was trying to make when I said that we have a community problem is not to blame the community; but, as an ACT community, as ratepayers, as citizens as well as politicians - sorry, Mr Stevenson; no personal offence intended - we all have a problem in that we are devoting a very high level of resources to Health and we are not getting as much efficiency out of that system as we should. What Arthur Andersens documented here is a culture that seems to think that the bottom line does not matter; that we are doing good works and somebody will pay for it. That has been a problem.

Mr Kaine: Which was exactly the problem when Mr Humphries was the Minister. I am glad that you said that.

MR CONNOLLY: It is not a problem that Mr Humphries created and that we have been unable to fix. It is a problem, from this report, that has been in the system for many years. I asked ACT Health to tell me how many reviews of Health there had been. There is a question about corporate memory in these circumstances, but I have six pages of reviews into ACT Health running back to 1970. If you take 1980 as a starting point - the period 1970 to 1980 takes only about half a page - I have five-and-a-half pages of reports and inquiries into ACT Health since 1980. It is an extraordinary saga. For the information of members, I will table this. I also, with some horror, confess that there is a handwritten note from a departmental officer which says, "To be updated". So there may be more, or there may be ones that have slipped the memory. We have a long-term cultural problem.

The debate about Health has been very partisan. The Opposition, every time that there is a problem, put out a press release saying, "Do more, do more; we are not doing enough" - the spend more, spend more type of press release. "All it takes is more money", said the Leader of the Opposition in this place. While not blaming the Opposition for the state of ACT Health, that is not helpful to the debate. There is a cultural problem. People think there will always be more money. The tenor of the political debate over many years - we may even have said "spend more money" when we were in opposition - has been to encourage that mind-set; that we are doing good works and it really does not matter how much it costs because somebody will pay if we overspend. We have to turn that around. Arthur Andersens said that the first thing that must be done, in their words, was to establish a financial imperative. Their recommendation was to create the interim financial board. We have renamed that a resource management committee, principally to remove the term "interim", and we have it up and running. It met today for the first time and it will, I hope, and I am confident, develop that sense of financial imperative.

There were a couple of other suggestions from Mrs Carnell. She suggested that we ought to look at enterprise bargaining structures to deal with some of those restructuring problems. I am not sure that Mrs Carnell is not reading my diary, because at one stage she said that I should sit down and talk to Ron Phillips about cooperation with New South Wales. I am doing that next week.

Mrs Carnell: That was the next page of my speech. I did not get to it.

MR CONNOLLY: She said that we should talk about enterprise bargains with the various health unions. Mr Lamont and I, in the last couple of weeks, have sat down with some of the key individual health unions, and collectively with the health unions group, and we have indicated that we are receptive to proposals for change within ACT Health. What we have to do within ACT Health is develop workplace reform that will deliver a benefit to the workers and a benefit to the community. We have said publicly that we do not want to create an impression in Health that the axe is about to fall; that everyone is going to be axed. Again the Opposition send confusing signals on this. On the one hand they say, "Spend more, spend more". On the other hand they say, "You are spending $30m too much". It is very hard to get a clear set from that.

The true position, Madam Speaker, is that we are spending $30m more than we should for the service that we are getting. In the Government's view, this community may well want to spend a bit more than the national average on health and get more services. What we are setting out to do in implementing this report and achieving changes in Health is not necessarily to slash or reduce expenditure for its own sake. We want to get more services; we want to get a more efficient health system in this Territory, and I am confident that we are on the right track to achieve that.

It would be very helpful for debates about Health to be proactive, looking forward for improvement, rather than this constant carping and criticism of the system, because it certainly can be debilitating to morale, although officers at the hospital perform an extraordinary job in difficult circumstances. As I pointed out the other day, that three-year accreditation of Woden Valley Hospital as a major hospital, achieved at a time when the hospital was by and large a construction site, is remarkable testimony to the dedication of those officers. We have some very dedicated health professionals, as, indeed, the Opposition concede. We have had lots of partisan debates about Woden Valley Hospital and we have seen some fairly silly statements reported about Woden Valley Hospital - Third World medicine and that type of thing.

Mr Cornwell: Closed cafeterias.

MR CONNOLLY: Full marks to Mr De Domenico for getting up here the other night in the adjournment debate. Mr Cornwell, watch that space.

Mr Cornwell: I am, and it is still empty.

MR CONNOLLY: Mr De Domenico stood up and said that he got excellent service at casualty the previous night. That was appreciated. At this first meeting today, when there were a large number of staff present, I said, "In fact, the Opposition are sometimes saying that you are doing a good job, so do not feel as though you are completely under siege". There is unanimous recognition in the community that we do provide a very high quality of service, but we must improve our financial performance. We must change that mind-set of ACT Health that goes back not a couple of years but a decade or more.

When you look at the extent to which this system has been poked and prodded and inquired into, at least once a year in the period of self-government, and well before that, it is clear that we have to have a time of consolidation, a time to stop inquiring and start doing. We went out - I would assume that the Liberals would think this was a sensible thing to do - and purchased some of the best advice available from the private sector. We have come into this chamber and made that advice public. We are not trying to hide anything. This is very much a warts and all report on the structure of health administration in this Territory. We have said that we are going to proceed down its path and we have demonstrated that we have put in place its first and key recommendation. We put it in place today. Mrs Carnell can have her dinner spoiled tonight, just as I spoiled her breakfast on Saturday, by watching the TV news and seeing this resource management committee having its first meeting.

Madam Speaker, as we have said before, we are rolling up our sleeves and getting on with the job. We have a problem as a community. It is pointless to play silly partisan politics with this issue. If Mr Moore changed his mind tomorrow - I am not trying to encourage him to do so - and you found yourself in government, you would face exactly the same problem. There is no simple magic wand here. Arthur Andersen say that it will take three years to turn around what has been a long-term malaise in terms of a lack of a financial imperative in the culture of ACT Health. We have the first recommendation already in place. I look forward to continually reporting to this place - I am sure that I will be asked - on how we are going in setting that in place. There is no simple answer.

Casemix, Madam Speaker, is not a magic wand. There are increasingly agitated calls for casemix. We tend to get from the Opposition the impression that if only we followed Mrs Tehan all would be well. There is significant debate in Victoria, not just from the Labor Party. You might assume that the Labor Party would be critical of anything the Liberal Government does, just as you seem to be critical of anything we do; but there is considerable debate within health administration professionals, within the medical profession and within reputable consumer organisations about just how effective casemix is, and certainly about some of the reclassifications that seem to have occurred in order to achieve the quite miraculous reductions in waiting lists that have been published by the Victorian Government. That is not to say that casemix is not a tool that we will be looking at. As I said at the outset, our casemix expert is working with our resource management committee, so we are seeing that as one of the tools that we will use to go about this process of improvement.

We are sitting down and talking to all the health unions. We are sitting down and talking with the AMA, as you would have read in *Canberra Doctor* - which probably spoiled your lunch if it arrived in the morning. We are setting the parameters for improvement in the system. It will take some time. There will, I am sure, be plenty of figures that do not look real flash coming out in future quarterly reports for the Opposition to politic about; but this Government is determined to get on with the job of ACT Health financial improvement, while continuing to provide to the people of this city and this region an absolutely first-rate public health system. There has been from the Opposition a litany of attack on Mr Berry for doing nothing to improve the public hospital system. The clinical school, which will be opening up next year, will be one of the most significant single changes in the delivery of health services in this community. It is something that I know the Opposition supports, and it is something that I know Mr Humphries had a great interest in when he was Minister. That decision was implemented by Mr Berry and it delivers to Canberra a full public teaching hospital quality of service.

MR HUMPHRIES (4.13): Mr Berry - I am sorry; I mean Mr Connolly. I still confuse the two to some extent. Mr Connolly has issued a plea for us to be more accommodating with the problems that he is facing. He seems to be saying that we are a tough lot here; the problems with Health are pretty deeply entrenched and we have so many problems to face that we have to really work through this, and so on. I am sure that all of us can accept, to a certain extent, the need for citizens of the Territory, and in particular politicians, to be working cooperatively towards resolving some of these longstanding problems; but there is a real question about just how long any government in the Territory needs to have to grapple with these problems.

Mr Connolly made some reference to the history of problems in Health. As far as he went he was fairly accurate. What he failed to mention was that the problem has come back fairly forcibly in the last few years. The problems that he identified in the course of his speech have been well identified, not just in this latest Andersen report but over a number of years through a number of processes. The issues which this report has identified are not in a sense completely new, yet we seem to still have emanating from Ministers in the Labor Government this view that, "It is only a matter of working out what the problem is and we can deal with it". With respect, we have had plenty of time to deal with the problem.

There was a budget blow-out in 1989 only a few months after the ACT achieved self-government. Mr Berry, as the first Minister for Health in the Territory, inherited a situation which, with respect, he probably had relatively little chance to control. The Government, not surprisingly, found itself in a situation where there had to be a serious examination of the problems with health finances only a few months after the formation of the Government. The Government fell in December 1989 and the recommendations that had been made by a working party set up by Mr Berry were picked up, identified and examined by the incoming Government. All of the issues, all of the points that were made by that report to the incoming Government, were implemented. Every single item in that report was implemented.

It was not surprising that in the ensuing 12 months after the new Government came into office there were no questions by the Labor Opposition, as it then was, about what was happening in health financing and health administration. In fact, there were no questions about health budgets. The first of those questions that did eventually arrive did not arrive until 19 February 1991. I checked the *Hansard* today. It appeared that the Labor Opposition - I assume this from the fact that they asked no questions about the matter - was content with the course of Health's finances for the full first year of the Alliance Government's operation.

On 19 February there was a question asked about Health's finances. A few days later the Liberal Government announced an inquiry into the finances of the health system and into reports of a budget overrun. That report led in turn to both the Enfield report and the Hirth report, two important documents among those that Mr Connolly referred to - the five-and-a-half pages of reports into health administration. We have some cause for saying that the issues have bubbled up at different times and have been variously identified and acted upon by governments. I think it is fair to say that the Alliance Government found itself surprised and dismayed even by the fact that a problem that we thought we had licked had come back to haunt us - the question of health budgeting and health finances. Those reports were put in place and the end-of-year outcome was greatly improved upon. Mr Connolly quoted the part-year figure. I point out to Mr Connolly that his predecessor, Mr Berry, made a great deal of the fact that part-year outcomes are not the outcomes you look at. It is the end-of-year outcome that really matters. The budget blow-out that might have occurred was very different from the one that occurred in terms of the final end-of-year outcome. However, there was still a problem.

When Mr Berry became Minister for Health again in June 1991 he was facing the prospect of enormous change in order to rein in the problems that the health system was facing, but he had before him the blueprint to do it. He had the Hirth report, he had the Enfield report, and he had two Treasury reports by that stage detailing the nature of the problems that had been experienced by the health budget. He had in front of him the information to be able to deal with what Mr Connolly has called the culture of inaction. I think he called it the culture of inaction within the health system - the idea that you can simply experience a budget overrun and then ask for more money from the Treasury and they give it to you. That was the situation faced by Mr Berry when he took office.

In the ensuing three years we have had a fairly free hand on the part of the Labor Party to deal with the ACT's health problems, three years in which to be able to face up to these problems and take action; yet, by his own admission, the present Minister says that the culture is still there. It has not changed. Five years of self-government appear to have made very little difference to the culture which exists among health administrators in this Territory.

Ms Follett: We are working on it. That is more than you did.

MR HUMPHRIES: "We are working on it", says the Chief Minister. With respect, I think five years is a long time to be working on it. It is fair to ask: When are we likely to see an end product for the work? That is not an unreasonable question to ask. We have had two successive governments experience health budget overruns. I point out, by the way, that the Alliance Government was the only government this Territory has ever had which has delivered a budget on target. That was the 1989-90 budget.

Ms Follett: Oh, no.

MR HUMPHRIES: It came in under budget that year, 1989-90. You check your records, Chief Minister.

Ms Follett: The 1989-90 budget was mine.

MR HUMPHRIES: No, it was not. You had part of the year, but most of the year was administered by Mr Kaine.

Ms Follett: The 1990-91 one was a deficit.

MR HUMPHRIES: Indeed, it was. I freely admit that. But I say again that every budget since then has been a deficit budget. That is the point. There has been only one budget on target. However, that is water under the bridge, shall we say, as long as we can see some developments which change and improve the situation.

Let me deal with one of the matters that the Chief Minister raised earlier today. She made reference to the fact that the Alliance Government faced a problem with its health budget and failed month after month - I think they were the words that the Chief Minister used - to acknowledge that there was a budget blow-out. I have checked the *Hansard* records. The Labor Party asked a question about blow-outs in the health budget for the first time on 19 February. Six days later I announced a review into the

budget overrun in Health. There is a slight difference between six days and several months. There is a slight exaggeration there on the part of the Chief Minister, I suspect. However, she is perhaps a little bit better informed now about what happened back in those days in 1991.

Mr Connolly is right; the system does deserve some bipartisan support to make it operate a little better, to try to face the problems it has experienced. In the course of going back through the records and examining what people did say in opposition in 1990-91, I came across some indications that the Labor Opposition in those days was not really very much into bipartisanship at all. Here are a few headlines and newspaper articles from the early part of 1991. The *Community Times* had a headline "Surgery Scandal". It then stated:

The number of people on the surgery waiting list in Canberra has risen by one quarter in the last 18 months, with -

wait for it -

well over 1000 Canberrans waiting for hospital beds to become available.

I note that the latest figures today show that there are 4,417 Canberrans waiting for elective surgery.

Mr De Domenico: Has the population increased fourfold?

MR HUMPHRIES: No, it has not. If that was a scandal then, what is it now? What was the reason for these increases in waiting lists? Mr Berry again had the answer. The *Community Times* on 20 February 1991 said:

People are being turned away from the casualty ward of Woden Valley Hospital because of the bed shortage in the ACT, according to Opposition Deputy Leader, Wayne Berry.

Mrs Carnell: We had 920 beds then.

MR HUMPHRIES: We had 920 beds then, and we have 630 now. Mr Berry certainly had all the answers, did he not? One final headline I thought I should draw attention to was quite amusing. This is the headline from the *Canberra Times* of 21 February 1991. Mr Connolly would be interested in this. The headline was "Conditions at ACT hospital described as Third-World".

Mrs Carnell: Who said that?

MR HUMPHRIES: This was somebody in the hospital, a doctor, I think, who was not named in this article.

Mr Connolly: It was Dr McNicol who described them as that.

MR HUMPHRIES: This is 1991. I do not think it was he at that time. The person was not named in the report, so it might have been Dr McNicol; you never know. I notice that in February 1991, when the hospital was described as a Third World hospital, there was no indication of support from the Labor Opposition then to defend the hospital against that charge. The Liberals were left to defend that charge entirely by themselves. So, Mr Deputy Speaker, I have to say that there is a little bit of inconsistency here. If Mr Connolly expects some bipartisan support he should be offering it when he has the opportunity; but, of course, he did not then, and he is not now.

MR DE DOMENICO (4.24): Like Mrs Carnell, Mr Humphries and Mr Connolly, I agree that now that we have had some change in the administration of the health portfolio in this place we may be in a better position to work in a bipartisan way. From what I have heard Mrs Carnell, Mr Connolly and Mr Humphries say, it seems that the bottom line has been that the stewardship of the health portfolio has prevented everybody from working in a bipartisan way.

Mr Connolly mentioned casemix. He said that it is not the panacea for everything that is going on in terms of what is to be the saving grace of the health system. We have to look closely at casemix because, notwithstanding that it does not have 100 per cent support from everybody, the system whereby hospitals in this situation are paid for what they actually do, as in the Victorian situation - in other words, they are given financial incentives - seems to be working very well in Victoria. There is no denying that. Mrs Tehan has something right. It seems to be working very well in Victoria. Mr Connolly talked about the Victorian scenario, but we need to realise that in Victoria private and public facilities are used for the community as a whole. In Victoria some private hospitals also have emergency facilities, some also have obstetric facilities, and some also have intensive care facilities. So we are looking at a situation where pound for pound, or, in this case, dollar for dollar, people in Victoria are accorded a greater mixture of health facilities in terms of public and private, and that seems to be working in terms of what it is costing per head of population and per facility being provided. It was also interesting to hear Mr Connolly say that every government would like to spend more on providing the facilities that are needed by the community. Perhaps one way the position of not spending more but being able to provide extra facilities for the same money would come about is through looking very closely at things like casemix and the provision of more private facilities for the use of the community.

That leads me to another point. Mrs Carnell and Mr Humphries - all of the Opposition, in fact - have supported Mr Connolly in his decision to approve additional private beds in the ACT. That is a good thing. But if that is as far as it goes, Minister, we have been treated to a typical media exercise, and nothing else. I am sure that that is not as far as it is going to go. Mr Connolly must entertain hopes for a much closer partnership between the private and public health sectors in the ACT if he is to have any chance of succeeding. It is a refreshing thing that Mr Connolly is doing. He stood up here and said that he is cooperating with his colleague Mr Lamont, who is now in charge of industrial relations. He said that we should watch this space and see what happens. That is good news.

Mrs Carnell: Why have they not fixed it already?

MR DE DOMENICO: That is a good question, Mrs Carnell. Why have they not fixed it already? I am going to be the devil's advocate on this occasion. Prior to Mr Connolly being handed the health portfolio and prior to Mr Lamont becoming the Minister for Industrial Relations, those two portfolios were handled by the one Minister, former Minister Berry. I agree with all the previous speakers that the best way to fix our hospital budget problem is to work in a bipartisan way. Working in a bipartisan way means that both sides of the political fence must throw away their ideology and inject a good dose of commonsense into the whole situation.

There have been five reports into the health system over the past five years and they all happen to say the same thing. One would think, notwithstanding what one's political ideologies might be from time to time, that one would tend to listen to the experts in the field. It seems to me that all the experts in the field are saying, "Listen, we have to make sure that we get more value for the dollar that we are spending in our health system". There is no denying the fact that, dollar for dollar, we spent 30 per cent more than the national average on our health system. Obviously there is something that we can do about that. I agree that the best way out of that is by doing it in a bipartisan way.

I am suggesting also, Mr Deputy Speaker, that no-one who is interested in fixing our health system views public and private health in the same simplistic way as Mr Berry did. That is good news. It is great news. It is refreshing to find out that Mr Connolly has realised that the best way of helping things out is to blend private and public. The day when private hospitals, for example, were simply the playground for the rich, privileged doctors, according to Mr Berry, is as long past as a Health Minister who could not bear to talk about private health at all. That is a refreshing view. Perhaps the most dramatic change in the way health is being run in the ACT was made when Mr Connolly was made Health Minister. It took this Assembly to make that dramatic change, after five years. I believe that it is something we can be very proud of.

I say again that a real partnership can alleviate some of the enormous pressure on our public hospital system and ensure that more people are treated sooner rather than later in the ACT. We have to remember, Mr Deputy Speaker, that in the ACT we have the highest percentage of privately insured patients but the lowest number of private beds per capita in the country. I also urge the Minister to consider the possibilities offered by some economies of scale in health. We have heard nothing about economies of scale from Mr Connolly. By that I mean that he should do what Mr Berry also failed to consider, and that is to look seriously beyond the border to New South Wales and its health infrastructure. If we think that our health system with a $260m budget is big, Mr Deputy Speaker, we have to think again. The New South Wales health budget is approximately $5 billion. Ours pales into insignificance. Surely, Mr Deputy Speaker, we should be looking at our role as the major hospital in the region, not as an island surrounded by smaller New South Wales facilities. Some limited sharing of resources at the very least would provide economies of scale.

Mr Deputy Speaker, I want to conclude my remarks in this important debate by giving Mr Connolly some friendly advice. Mr Connolly, if you treat this portfolio as a bus depot you will crash and you will burn. There is no doubt about that. I think the Opposition needs to remind Mr Connolly of an incident at last year's Estimates Committee when his predecessor, Mr Berry, was asked to provide a list of areas from which $3m of savings would supposedly be achieved in 1993-94.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

Ms Follett: I require the question to be put forthwith without debate.

Question resolved in the negative.

DEPARTMENT OF HEALTH
Discussion of Matter of Public Importance

Debate resumed.

MR DE DOMENICO: I want to remind you, Mr Deputy Speaker, of an incident at last year's Estimates Committee when Mr Berry was asked to provide a list of areas from which $3m worth of savings would supposedly be achieved in 1993-94. In his usual fashion, Mr Berry came back with 10 initiatives and gave one of his now infamous promises that the reductions would be made. Obviously, not one saving has been made. For all the rhetoric, Mr Berry and Mr Connolly are now staring down the barrel of a $9.7m blow-out, as I think Mr Connolly suggested in his remarks.

I and the Opposition urge the new Minister to put management of our health system first and ideology second if Canberrans are to have any confidence in our public health sector again. The quick grab and the hard-hat tours for the media count for nothing when nearly 4,500 Canberrans are waiting for surgery. In concluding my remarks, I agree that the health system will be fixed up only in a bipartisan way. The Opposition, through Mrs Carnell, has stated quite clearly that we are prepared to play the bipartisan game. We are refreshed by the fact that Mr Connolly, the new Health Minister, also appears to be heading in the right direction. We hope that he has the intestinal fortitude and, more importantly, the numbers to continue on that wonderful road. We look forward to working very closely with him for the benefit of the people of the ACT.

MR DEPUTY SPEAKER: The discussion has concluded.

SUPPLY BILL 1994-95

Debate resumed from 12 May 1994, on motion by Ms Follett:

That this Bill be agreed to in principle.

MR KAINE (4.32): Normally one can say that there is nothing very remarkable about supply Bills, and convention suggests that oppositions should pass them. Therefore, one could assume that they are fairly non-controversial documents. As has been the case with previous supply Bills put forward by our present Treasurer, however, with this Bill that is not the case. There are some interesting things about the Bill, which was tabled only a week ago, that I would like to deal with today because I think that they should not go unremarked upon.

The first thing that I think I ought to comment on is the quantum of the amount that is being asked for by the Government for supply. The Chief Minister made the point in her tabling speech that what we need is simply an amount of money sufficient to tide the Government over until the Appropriation Bill is passed. Of course, the Appropriation Bill overtakes the Supply Bill, and the Government then has sufficient money to carry out its business for the next year. She commented that there are some special factors that need a little bit of padding over and above what you would normally assess to be the expenditure required for this notional period until the Appropriation Bill is passed.

Last year we had a five-month supply period. It was not expected that the Appropriation Bill would be passed until November, so we had to provide the Government with sufficient money to last for almost half of its fiscal year. The amount appropriated in the Supply Bill was $640m in round figures. This year the Government reasonably expects the budget to be passed in August, so we are really talking about only a two-month period. If the budget is likely to be, in round figures, $1.2 billion, then the Supply Bill for that two-month period ought to be for, say, $200m. But what do we ask for? We ask for over two-and-a-half times that. We ask for $516m in round figures. There must be some fairly substantial one-off, unexpected items of expenditure to warrant building the amount up from - let us give them a little bit of a margin - $300m to over $500m. Once again, as has been the case in previous years, it is difficult to reconcile the amount of money being sought by the Government in their Supply Bill and what one would reasonably expect to be required. The amount being sought is much more.

I wonder whether that is not the kind of thing that led to the comment by Arthur Andersen, in connection with the health organisation, that there seems to be a presumption that there is a bottomless pit of money. When the Government seeks the approval of the Assembly to provide $500m or more to do what you would expect $200m to do, would that not lead people to suggest that perhaps the Government has plenty of money and that there is no real problem, because we will just provide $500m to operate the business of government for two months? That is essentially what these documents and the tabling speech by the Treasurer suggest.

I think the Government needs to examine itself. I suggest that the Chief Minister and Treasurer ought to do an analysis and ask herself why she has been told, presumably by the Treasury, that they need this much money to carry out the business of government for two months - or even less, because it is conceivable that the Appropriation Bill could be passed on the first sitting day of the Assembly in August. The Estimates Committee assumes that it will finish its business by about the end of June.

Mr Connolly: It will be such a good budget that you will just want to vote on it on the day.

MR KAINE: It will be another disaster of a budget, Mr Connolly. Let us be clear about that. We can absolutely count on it. It will be another budget that does not address the issues of youth unemployment, that does not address the question of fixing the health screw-up, that does not address the question of reducing expenditure on education, that does not deal with any of the problems that are confronting this Territory, that does not deal with stimulating business to get itself up off its backside and to be able to generate some jobs. It will do none of those things, and we can predict that here and now. Let us not have any of your smart comments about how brilliant the budget is going to be. We know that it will be another Follett budget that does none of the things that should be done and addresses none of the issues that should be addressed. But we will deal with that in due course.

Mr Connolly: It is nice to see that you are approaching it with an open mind.

MR KAINE: The other day Professor Gruen gave you the same advice that I have been giving you for five years - that there are only three things you can do. You can raise revenue, you can reduce expenditure or you can borrow. You had to wait for Professor Gruen, five years into self-government, to give you that same basic advice that I have been giving you for years. That has been hailed as a brilliant piece of economic analysis and advice. I have not seen you address one of those issues in five years. You have had four of those years in government. You have not addressed any of those issues.

You have not confronted the revenue raising problem, and it is going to be a real trouble for you this year. You have not addressed the problem of, essentially, getting the expenditure side of your budget down. I am sure that flows from this notion that somehow there is plenty of money. The Government has no defined target for expenditure reductions; they just cut expenditure by 2 per cent, and if the administration does not achieve that nobody cares. The Treasury simply advances them some more money, so they spend it anyway. That is the major criticism that I have of the Supply Bill. It leaves the impression that there is plenty of money lying around and that the Government is saying, "Do not worry. Just come back to the Treasury if you need some more and we will fix it for you".

That is even more obvious when you examine some of the items contained in this Supply Bill. I mention specifically the allocation for Housing and Community Services. It comes back to this question of how much is enough. Last year, for a five-month allocation, Housing and Community Services was given the sum of $45m in round figures.

This year, for a two-month requirement, they are given almost the same amount; they are given close to $43m. What is contained in that? What is there going on in Housing and Community Services that would require some sort of up-front payment that is a one-off and that is going to distort even the linear expenditure of money throughout the course of the year? Why does the department need almost as much this year as it was given last year in a supply period that was two-and-a-half times as long? It raises some very interesting questions, and perhaps the Chief Minister can explain why this is so.

You also have to look at interesting figures such as those for the Department of Health. We are asked to provide nearly $90m for - let us be generous - a three-month supply period. If that is the amount for the three-month supply period, four times that is $360m for Health for the year. Last year it was only approximately $270m. So are we expecting a massive increase in health expenditure again this year? Is it going to be out of control again? Is the Government already predicting that health expenditure is going to be out of control and making massive provisions that do not appear, on the face of it, to be justified? We can go through the Bill and look at item after item, but there is so little information provided with supply Bills. We are expected to take it on faith that the Government really needs this much money and we either accept it or reject it. Conventionally, oppositions do not reject supply Bills, and we are not going to reject this one; but it does raise some interesting questions.

The only other point that I want to deal with, Madam Speaker, is the special provision this year in connection with the establishment of an ACT Health special purpose funds trust fund. In last year's budget there was a thing called a health transitional operations trust fund. One would assume that it was just that - it was a transitional fund to move from the old system of accounting in Health to the new. Having analysed last year's health budget, we built into it all of the things that Health had previously said were uncontrollable. Their budget, in fact, was increased by approximately $30m so that we made provision for all of those things about which, every time we questioned their figures, Health told us, "These things are outside our control". We said, "Make an estimate and we will put them in the budget. The provision will then be there and there will be no excuse for you overexpending your budget". That did not stop them overexpending by an estimated $9m, however.

But outside of that there were moneys that I understood at the time were being put into a transitional operation. They were moneys from donations and grants that had not been spent. I thought, "Fair enough. Put them in a transitional trust fund, and when they are spent the trust fund will go out of existence". But now we are making this transitional trust fund a permanent trust fund. There are two elements to that. One is grants. Nowhere else in budget are grants treated specially. They go into Consolidated Revenue. They are spent for the purpose for which the grants are made by the Commonwealth. This fund was established last year, and part of the money in there was from radiation oncology payments received from the Commonwealth. Even then the transition fund had a Commonwealth grant in it. But in other programs in the budget operated by other agencies the grants go into Consolidated Revenue. People managing the books know what they have the money for and they spend it for that purpose. They do not have to set

up a trust fund to deal with it. I am surprised that we are suggesting that we perpetuate a trust fund for that purpose here. This money disappears out of the budget. It is just another little slush fund. We have just eliminated a $30m trust fund that the health organisation had last year, and now we are going to create another one.

The other element of this is donations. I can understand that private enterprise and private individuals making donations want to be assured that the money is spent for the purpose for which they give it. I would argue that that sort of money should not be going through the public accounts anyway. It is not public money. If it is to be properly accounted for, the health organisation should set up a foundation into which this money is paid and a management board should be set up to manage that foundation. That money should not go through the public accounts at all, in my view.

Mr Connolly: It just lets you have a look at it and lets your committee look at it so that you know what is happening. It is a matter of record.

MR KAINE: Mr Connolly cannot just sit there and listen and perhaps take some advice as to some things that he should look at in his own budget and in his own management field. You set up a trust fund such as this and it will grow. In fact, last year the estimates showed that the opening balance of $1.6m in 1992-93 would grow to $2.7m in 1996-97. Why it would grow I cannot imagine. In fact, I would say that the transition fund should have reduced to zero, but it is predicted that it will grow. If you establish such a trust fund, it will grow all right. Every little bit of money that we cannot spend this year will find its way into a trust fund so that it can be spent next year, the year after that or sometime downstream.

That is not what public money is for. It should not be going into such an account. I make a distinction between public money and private money. Private money should be dealt with as private money - not put into Consolidated Revenue, not put into a public trust fund, but put into a foundation where people can be assured that it is being managed and spent for the purpose for which it is donated. As always, Madam Speaker, there are things about this Supply Bill that deserve to be remarked upon and that perhaps the Chief Minister can throw some light on when she responds.

MS SZUTY (4.45): I support the Chief Minister's Supply Bill for 1994-95. In so doing, I note that the amount provided is less than in previous years due to the earlier budget presentation. Mr Kaine and I have looked at the Supply Bill in slightly different ways, but it amounts to the same thing. It has been a quite interesting exercise. The appropriation in this Bill is $515,595,800 - a reduction of $127,771,500, or nearly 20 per cent, from the appropriation in the 1993-94 Supply Act. The benefit of the earlier budget cycle is already clearly apparent, and I trust that next year it will be more so, as there will not be a need to include additional funds in the Bill as a contingency against the uncertainties of an earlier budget process.

In looking at the appropriations on a program basis, in comparison to the 1993-94 Supply Act, it is clear that the overall 20 per cent reduction does not apply across the board. There are reductions of 25 per cent for the Legislative Assembly, 33 per cent for the Chief Minister's Department, 6.5 per cent for the Department of the Environment, Land and Planning, 6 per cent for the Bureau of Sport, Recreation and Racing, 5.5 per cent in

the Housing and Community Services component of the Attorney-General's Department and 30 per cent for the remainder of that department, 25 per cent for Urban Services, 18 per cent for Education and Training, 29 per cent for Health and 50 per cent in the Treasurer's Advance.

It is not surprising that the reductions vary on a program by program basis, but I wish to seek further clarification, as Mr Kaine has, on a number of matters. The first is the increase of $3,392,300, or 11.5 per cent, in the ACT Treasury appropriation. I note that while the allocation for recurrent expenditure has dropped by about $5m the appropriation for capital expenditure has increased from $150,000 for 1993-94 to $7,260,000 for 1994-95, and I would like the Chief Minister to address this increase in her speech in reply to this debate, if she is able to do so. I also note the sum of $7,313,000 as the appropriation for the Department of Public Administration, and I would also like the Chief Minister to further explain this substantial appropriation.

In conclusion, Madam Speaker, I take pleasure in supporting the Government's 1994-95 Supply Bill and, in so doing, renew the commitment I made in the lead-up to the 1992 election to guarantee stable government by guaranteeing the passage of the Supply Bill.

MR DE DOMENICO (4.48): I have a couple of questions that I would like the Chief Minister to clarify my thoughts on. Firstly, she mentions in her speech:

Additional allowances have been made for full year Comcare premiums payable during supply.

I would be very interested in knowing how much the full Comcare premiums are this year. Secondly, we note also the establishment of a new sport and recreation programs and facilities trust account to the tune of some $4.5m in round figures. I would also be interested in knowing whether that reflects the fact that we are setting up a trust account that for a full year is going to have an appropriation of about $18m or what that trust account is going to do. Thirdly, we note also that, as in the past, the Chief Minister has included additional funds in the Bill as a contingency. Perhaps she can elaborate on what some of those contingencies might be and how much of the $515m has been set aside for all such contingencies. As Mr Kaine, the shadow Treasurer, said, the Opposition will not be opposing the Bill.

MS FOLLETT (Chief Minister and Treasurer) (4.50), in reply: Madam Speaker, I thank members for their comments on the Supply Bill. I would like, first of all, to respond to some of the points that Mr Kaine raised, the main one of which was why we were appropriating some $515m for an apparently reduced supply period. Madam Speaker, it is the case that under the earlier budget timetable I would expect the Appropriation Bill to be passed very much earlier than it has been in previous years, but I was not prepared to take a risk with it. For that reason I have erred somewhat on the side of caution by allowing in the Supply Bill some four months' expenditure. I think that is a reasonable thing to do. It in no way means that we are going to spend all of that money before the Appropriation Bill is passed. It is merely a precaution that I have taken and also a gesture towards the Estimates Committee, whose work I do not wish to pre-empt. I have done it in the face of this being the first occasion when we have had an earlier budget.

Mr Kaine also raised some specific areas on which he wanted further information, the first being the Housing and Community Services Bureau. I would like to comment on that. This is nearly all a grants issue. In fact, there are two quarters of grants payments payable within the period of the Supply Bill, so that has somewhat blown out the figures that you see. Mr Kaine also asked about the health area. The health funding in the Supply Bill, in fact, is some 32 per cent of the forward estimates. I think that that comes to around four months, so there is not an expansion there. The health trust fund which Mr Kaine has raised is a special trust fund that has been set up in order to receive a range of grants and donations from various non-government organisations and from individuals as well. The grants and donations might be tied to a specific purpose. The special purpose trust account that has been set up allows the grants and donations to be accounted for separately from the funds appropriated to the Department of Health through the Consolidated Fund. That ensures that there is disclosure and absolute transparency concerning these moneys.

The Auditor-General has recommended to us that we not mix trust money and budget money, and for that reason we have taken the step of separating the trust money out. The items that might be included in this trust account include grants and donations, for instance, for cancer research from the National Health and Medical Research Council, grants for Crohn's disease research, general practice grants from the Commonwealth, and cardiology research and Institute of Health research grants. In the main, these grants and donations are continuing things; they are not tied to a particular financial year. During the supply period doctors and other staff will be undertaking research projects, and they will need to be paid from these trust moneys. In addition, the consumables involved in their research projects will need to be paid for. That is the reason for that trust account, and it follows on from the Auditor-General's comments.

Ms Szuty asked, first of all, about the Treasury capital figures. I am advised, Madam Speaker, that the Treasury capital figures as they are reflect repayments of advances to the Commonwealth. I think that that is going to occur more in the supply period than it will during the remainder of the year. There is also a component in that capital figure for Treasury's computer acquisitions, which I think will occur early in the year as well. There is actually no increase for the Department of Public Administration. It is a similar proportion to that shown in the forward estimates; but, of course, in the forward estimates it is under the old administrative arrangements orders. They have now been consolidated into one department, and I think that accounts for the sum that is there. There is no real difference.

Mr De Domenico asked about contingency matters. For contingencies in the supply period, we have allowed some $9m for recurrent expenditure and $59m for capital expenditure. That relatively large amount of capital money in the contingency fund reflects the expected timing for capital works expenditure. Again, it is expected to occur more in the early part of the year than in the later part of the year. Madam Speaker, Mr De Domenico asked also what the full-year Comcare premium payable during the supply period will be. I will endeavour to get that information for him.

In closing I would like to say again to members that this is not the minimum supply period that you might have expected to see - which, as Mr Kaine said, would have been about two months. I have allowed an additional period as a contingency against the possibility of anything going wrong with the earlier budget timetable. I hope that nothing does go wrong, because there are great advantages in meeting that early budget timetable; but I did not feel that in our first year it would be wise just to assume that everything would go swimmingly, including the Estimates Committee being able to meet their new timetable as well.

Madam Speaker, I have said also that there are new structures within the Supply Bill that reflect the new administrative arrangements orders. I know that the schedule has caused a bit of consternation, because after five years we have become a bit used to the names and numbers of various programs, and the impact of the new Department of Public Administration and of the Sport, Recreation and Racing Bureau has thrown all those numbers and names out quite considerably. I am afraid that it will be a matter of getting used to that. I trust that that will not delay members greatly in their consideration later in the year in the Appropriation Bill and Estimates Committee process. Madam Speaker, I thank members for their attention to the Bill, and I commend it to the house.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

DOMESTIC RELATIONSHIPS BILL 1994

Debate resumed from 21 April 1994, on motion by Mr Connolly:

That this Bill be agreed to in principle.

MR HUMPHRIES (4.58): I am pleased to rise today to indicate the support of the Opposition for this important Bill. I think someone called it a landmark Bill. Lots of Bills are called landmark Bills, but this one probably is. I consider that what we are doing here will bring to a problem of long standing a remedy which I believe will see a great many more people brought within the scope of certain well-defined laws which will set out their remedy where they have been involved in a domestic relationship or a relationship of whatever kind and have been let down.

Persons involved in a formal marriage, of course, have had the protection of the Family Law Act for nearly 20 years. That Act has provided, not necessarily without controversy, a great deal of certainty about what their rights are in the event that that relationship breaks down - rights in respect of both themselves and the children of the relationship. Other jurisdictions have enacted legislation in respect of de facto

relationships - marriages except for the formality of a marriage ceremony - and the ACT has lacked that in the past. This is an attempt to remedy that, but to do much more than just that. It is appropriate to make the point that it is more than simply de facto marriages that deserve to have some certainty introduced to their nature. A great many other relationships of a personal or familial kind need the same certainty and protection. That is why we see considerable merit in the path that has been adopted here, beginning with the tabling of a discussion paper last year, followed by the introduction in due course of the Bill arising from debate on that discussion paper within the community and by the debate today.

Madam Speaker, this is a Bill that has attracted a great deal of interest, despite not being a really high profile Bill in one sense. I have certainly had a great many requests for copies of the Bill, many of them from legal practitioners who will be interested in being able to provide, in a sense, an additional service to their clients. I know from having been a practitioner that in the past some people have had to be turned away or told, "The options open to you are unfortunately rather uncertain. We can go to court and argue that you should be provided with certain protection on the basis of certain legal arguments about constructive trusts, and do it in the Supreme Court moreover, where it is going to be much more expensive. We cannot offer you too much certainty about the outcome, but that is how it is". This will remedy that, and people will know what their position is with some greater degree of certainty.

Madam Speaker, the parameters of this Bill - that is, the sorts of relationships it touches upon - are the most crucial and possibly also the most contentious aspect of the legislation. This is the area in which the Liberal Party thought long and hard about whether to introduce amendments to make clear what has been said about the Bill and what we still feel might be a problem in the future. It is not necessary for a person to live with another person for those people to be in a domestic relationship pursuant to this Bill. It is not necessary that people be in a sexual relationship for people to be caught by the terms of this Bill. But it is necessary - and I quote the Attorney-General - that there be a common factor which he describes as follows:

The common factor for applicants will be their contribution to financial resources of another, and that alone. A person who fulfils the stipulated requirements is eligible to apply for a remedy.

That definition is slightly expanded by the definition of "domestic relationship" in clause 3 of the Bill, which says:

"domestic relationship" means a personal relationship (other than a legal marriage) between 2 adults in which 1 provides personal or financial commitment and support of a domestic nature for the material benefit of the other, and includes a *de facto* marriage.

Madam Speaker, that is a fairly broad definition. On the face of that definition, it might be argued that it will catch a number of relationships which I think it was not intended be caught when the legislation was originally prepared. Obviously the sort of relationship that it is intended be caught is the relationship that exists, say, between an elderly mother and a son where that son provides certain sorts of support to the mother over a period

of time. Another might be where an invalid or an incapacitated person lives with a companion who cares for that person over a period of years. Obviously parent-child relationships of most kinds would be covered, as would all sorts of other relationships of the kind that, I am sure, we have all encountered in our own lives and that it was intended be covered by this legislation.

Others that perhaps it was not intended be covered might, simply on those words, be covered. For example, people may have a group house - which is not uncommon in this city with four universities - in which three or four or more people share domestic tasks. One may provide personal or financial commitment and support for the material benefit of the others - that is, cook for the others; another may clean for the others; and another may wash the clothes for the others. You can see that there might be some question of whether those relationships might give rise to a domestic relationship under the terms of this Bill.

We can also imagine, for example, a situation where a person volunteers to provide meals on wheels to a whole range of individuals. The person provides that service as a volunteer, and there is no financial remuneration. It is certainly a personal commitment. You have to have personal commitment in order to be able to offer it, and the relationship would be of a domestic nature obviously, and it would be for the material benefit of another. So it is possible to say that that might, in certain circumstances, be caught by the bare words of clause 3.

What is there in the Bill and elsewhere that reads as meaning that we are not covering those sorts of things? The most obvious things are the provisions of the explanatory memorandum. I think it is worth reading those into the legislation. They state:

It should be made clear that the relationship is to involve a commitment which goes beyond friendship and 'neighbourliness' - flatmates, people living in group houses, employed live-in housekeepers and other domestic employment. Those living in halls of residence for employees or students would also not normally be entitled to seek relief.

That goes some way towards alleviating the concern that the Opposition has. I think it is appropriate for the Minister responsible for this Bill to spell out a little more clearly how he sees that limitation applying. It may well be that some people will test the limits of this legislation from time to time, and a clear statement from the Attorney about what he sees the limits being would be very helpful to those persons, either before or after they commence such an action.

It is also important not to undermine the spirit of voluntarism, which is such an important part of the way our community operates. If it were to be the case, for example, that a person offered support on a continuing basis to an elderly neighbour down the street by, say, helping wash the clothes or mow the lawn, it would be most unfortunate if the elderly person who was receiving the assistance were to feel that they might be giving rise to some kind of claim against them or their estate by virtue of accepting that help.

It would be extremely unfortunate, from the point of view of the voluntary assistance and contribution that our community so heavily relies upon, if that were to happen. I hope that we can make it clear today that that kind of thing will not be covered; that it is not intended to be caught by this Bill and will not be the subject of claims or actions in the courts pursuant to this Bill.

The Minister may also feel that he can rely on the terms of the discussion paper which has been put out, which discussed the issue fairly fully. I would caution against that line of reasoning. I am not sure whether it is legally possible for a judge or magistrate to take account of a discussion paper which gives rise - - -

Mr Connolly: You can look at reports and things as ancillary material.

MR HUMPHRIES: The Minister indicates that he thinks it might be available. Some of the problems we are presently encountering on the Legal Affairs Committee - dare I mention it - considering the criminal injuries compensation legislation arise from the fact that there is a difference between the words in the legislation and the words which were put into a discussion paper back in the early 1970s. So I caution against relying too heavily on documents of that kind and suggest that, although it is not necessarily possible to put in the statute the words that will properly convey the essential notion, it is important for those words - if it is possible to frame them - to be used in the course of this debate by the Minister when he sums up.

I suppose that the essential element that we are looking for to make a relationship a real domestic relationship of the sort that we are talking about here is either deep personal affection or love. But it is, of course, extraordinarily difficult to put those sorts of terms into legislation. Let us say that lawyers are not familiar with dealing with those concepts and, therefore, would not be used to framing precise language to describe them.

Mr De Domenico: Especially when they send the bill.

MR HUMPHRIES: "Especially when they send the bill", says my colleague Mr De Domenico. Madam Speaker, there is also the question of the sorts of remedies available under this legislation. Of course, it is possible for a person to seek maintenance for themselves under certain circumstances or for a child of the relationship or a child who is the responsibility of one of the parties to the relationship. It is also possible to have a party seek adjustments to their property rights.

At the moment, my advice is that the Bill does not cover claims against deceased estates, so it is not possible for a claim to be made against the estate of a person who has died. That, I am told, is a matter which it is proposed be remedied in the future. If that is the case, then it would be helpful to have some idea of what the Government's plans are in that respect. That, obviously, will make a big difference to the way in which this Bill operates. Very clearly, many of the relationships we are talking about here will involve elderly people, and very often people will be making claims after a person has died if, in their opinion, they have not been properly provided for in the will of the person who has died. There is, of course, already the Family Provision Act in the ACT, which allows

certain limited categories of people - I think it is parents, children and spouses - to make claims where they have not been adequately provided for in a will. If this legislation ultimately covers deceased estates, assuming that it does not now, then obviously that capacity in the Family Provision Act to make such claims will be greatly expanded, and it would be nice to know what the Government's position is on those sorts of matters.

I raise a couple of other issues. Subclause 23(5) of the Bill was picked up by the Scrutiny of Bills Committee. That committee identified an element of potentially burdensome retrospectivity in that the court may make an order decreasing the amount of a periodic sum payable under an earlier order and this may be expressed to be retrospective to such date as the court thinks fit. That might, of course, have some retrospective and disadvantageous elements. I am advised that subsection 83(6) of the Family Law Act, which of course provides similar relief to married people, is in similar terms. Obviously, although it is possible for a court in those circumstances to make an adverse retrospective order, nonetheless it is a court making such a determination in the circumstances of the case. I am personally satisfied that that is sufficient ground to allow retrospectivity to be potentially available as an element of this legislation.

I also draw members' attention to subclause 12(1) of the Bill, which says:

... a court shall not make an order ... unless it is satisfied that a domestic relationship has existed between the applicant and the respondent for not less than 2 years.

I asked whether that two years needs to be a continuous period of two years, and I am advised that indeed it does need to be a continuous period of two years. Possibly that is harsh for people who have been in relationships for broken periods over a period of time, but possibly it is not. I simply raise the issue and draw it to the Assembly's attention so that we can consider in the future whether that is an appropriate way in which the provision should operate.

Madam Speaker, one final point I make is that this Bill confers an equitable jurisdiction on the Magistrates Court. People who are not lawyers would be intrigued by the difference between common law and equity and would be intrigued to know that until about 100 years ago those two different ways of dealing with people's rights were entirely separate and dealt with by completely different courts. It was only about 100 years ago that those two sets of principles were permitted to be dealt with by the same courts. The Minister says two different things in his presentation speech about the equitable jurisdiction. He says on page 6 of his speech:

The purpose of the Bill is to extend and clarify the application of principles of equitable trusts as they relate to domestic situations.

He also says towards the end of the speech, in talking about those same equitable principles again, that what the Bill does is to firmly establish these principles and specifically apply them to domestic relationships on the general principles of common law and equity. I assume that by this he is saying that we are not essentially changing the

equitable principles under which the laws relating to constructive trusts, for example, operate, but we are extending those equitable principles to certain relationships which might not previously have been covered by them. I take it that that is the case.

In any case, Madam Speaker, equitable jurisdiction is now being exercised by the Magistrates Court. The Magistrates Court has not traditionally had such a jurisdiction; it has always been exercised previously by the Supreme Court. I had some slight concern about the extent to which magistrates in the ACT would be able to deal with those equitable principles. Obviously, all the magistrates are trained lawyers, but some of them would not have had any experience on the bench of dealing with these principles. I understand that certain training programs are being instituted in the Magistrates Court to deal with that shortcoming. I just note in passing that possible problem with a new jurisdiction, a quite extensive new jurisdiction, being conferred on a particular court in the Territory.

In conclusion, Madam Speaker, I want to say that this is the International Year of the Family and it could be said that it is our duty to promote and to support the institution of the family. There are some who would say that essential to that institution is the institution of marriage. That view, I suspect, is a slightly narrow view in that there are many other sorts of families which, for better or worse, do not depend on marriages. We will have a chance to talk about this when we debate the ministerial statement on the International Year of the Family. A more important element is the element of parenthood and the provision of care for other members of the family, generally as a parent to a child, but sometimes in other circumstances as well. I would hate to think that we were seen to be eroding or undermining the institution of marriage by passing legislation such as this. I believe that it is the duty of this Assembly to support that institution as much as it can.

I think that the answer to the question I have raised is that we do not erode the institution merely by offering some support to other sorts of relationships or institutions, if you can call them that, in our community. What we are doing is recognising that other relationships do, also, carry with them some rights. That, I think, is the answer to the question I pose. Perhaps others would like to comment on that in the course of the debate. I take the task of the Assembly very seriously in that respect and I believe that we do need to provide that protection to other sorts of relationships because they, for far too long, have been unprotected under the laws of the Territory. There may be some grey areas yet to be cleared up by the scope of this legislation, but that will be a matter of trial and error. We will have to watch the operation of the Act to make sure that it does cover those important areas properly and does not become what was not intended by this Assembly. However, in respect of the matter of protecting those other relationships, those other rights, it is high time it happened, and I am glad to see the Bill before the house today. I commend the legislation to the Assembly.

MS SZUTY (5.18): Madam Speaker, I welcome the opportunity to participate in the debate today on the Domestic Relationships Bill 1994. The passage of this Bill will herald important changes in the ACT, as Mr Humphries said, enabling a range of people who have provided personal or financial commitment and support of a domestic nature to the material benefit of another person for two years to seek adjustment of the ownership of property which is held by the other person to reflect the value of their contribution.

Madam Speaker, I note the important consultative process which has occurred prior to the tabling of this Bill. Members of the community have had a considerable amount of time to familiarise themselves with the debate through the earlier release of a discussion paper and an exposure draft of the Bill. I particularly welcome, Madam Speaker, the removal of references to the question of whether or not there has been a sexual relationship between the parties as a relevant consideration. In addition to people in de facto relationships, the Bill will be relevant to people in homosexual relationships, people in caring relationships, as well as people in other sorts of relationships of a domestic nature.

The explanatory memorandum to the Bill outlines some relationships which it considers do not come under the jurisdiction of this Bill. These relationships include friendship and neighbourliness commitments, people living together as flatmates, people living in group houses, people employed as live-in housekeepers and in other domestic employment. The legislation also is not intended to apply to people such as employees or students living in halls of residence.

I would now like to turn briefly to the only other significant change which has been adopted in the Bill from what was indicated in the discussion paper and the exposure draft of the legislation. This change makes it clear that not only can a court make a declaration that a domestic relationship does or did exist at a particular time, or during a particular period, but it also can declare that the domestic relationship does not or did not exist at a particular time or during a particular period. This is an extremely sensible initiative and it takes account of the need to address this issue fully. As the Minister's presentation speech indicates, the power of the court to declare a relationship finished may be especially beneficial to people who have been living in a potentially violent relationship. Again, for the information of members, I sought the opportunity to be briefed on the Bill. That enabled me to seek clarification with regard to a number of its provisions.

Mr Humphries has raised a number of issues for the Assembly's consideration, but I also would like to raise a number of those. The first concerns the wording with regard to the care and control of children in the relationship. When I read those words in the Bill the thought occurred to me that we are dealing with landmark legislation which is very much to the forefront of what jurisdictions in Australia are considering, yet we still talk about parents keeping control of their children. I believe that that is unfortunate wording; but I am advised that similar wording exists in the Family Law Act, and that is the reason for its inclusion in this Bill.

Mr Humphries also referred to the issue of relationships being considered where they have existed for two years. I also queried the reason for a two-year period as the time in which we would consider whether domestic relationships had been in existence or not. I am advised that that is the period that applies in the New South Wales legislation. It also serves to impose a control on the number of applications made. While I note that that may well be prejudicial to some people who do not live in a domestic relationship for two years, I also note that action can be taken by parties under common law. That recourse is available for those people.

I note that the court will retain discretion to hear matters outside a two-year period if the hardship suffered by the applicant if refused an extension would be greater than the hardship suffered by the respondent if granted one. I think that there are circumstances where people can suffer hardship that is unforeseen. A person may have expected to gain employment after the ending of a domestic relationship and have found subsequently that they could not, or there may be a situation involving care of a child who has acquired a disability or who has been particularly ill over a period. Therefore, the courts will consider applications from parties in circumstances where they have been disadvantaged.

There is some discussion in the Minister's presentation speech about the issue of "rehabilitation based maintenance", and I note that those words are included in other legislation in other jurisdictions in Australia. That was not considered appropriate wording for this Bill. We have referred instead to "compensation based maintenance" as a more appropriate term, and I would agree that it is more appropriate. "Rehabilitation based maintenance" does imply that a person receiving that maintenance is deficient or perhaps has a particular disability. I welcome the change which has been made to our legislation in that respect.

In discussing the agreements which can be drawn up between parties in a domestic relationship, at the beginning of, during or at the end of that relationship, I noted that advice is available to both of the parties. The legislation refers to solicitors' advice being available, but it does not specify that the parties should be advised by different solicitors. I have noted that ethical law practice requires that different solicitors advise different parties over an agreement, and I am happy for that situation to continue to be handled in that way. I also note that the Magistrates Court will have a greater jurisdiction to consider applications. Its role will be extended. The Government believes that this will enable people to have greater accessibility to the court system. It also is considerably less expensive. I also note that both the Magistrates Court and the Supreme Court were consulted on the provisions in the legislation, and the Supreme Court had no difficulty with the Magistrates Court having extended jurisdiction in these areas.

The Act will not apply to domestic relationships which have ceased prior to the commencement day. It occurred to me that there was no transition period for people whose domestic relationships may be about to cease. Those people have no recourse to this legislation until the Act commences. I am advised that that is the situation as it has applied elsewhere in Australia; that the decision revolves around legal reasoning and relates to the legislation coming into effect on a particular day. I sought advice as to when this legislation may come into effect. I have been advised that that is likely to be as quickly as possible. There is unlikely to be a delay of several months for further matters arising from the legislation to be taken up. It does look as if this legislation will come into being fairly shortly, and that will be of considerable benefit to a number of people currently in domestic relationships.

Mr Humphries referred to a matter which the Scrutiny of Bills Committee raised about possible prejudicial retrospectivity applying to some people in relation to this Bill. My understanding is that the court does not regard prejudicial retrospectivity as being a negative to a person in particular circumstances. Often it is a situation where a person's

change in circumstances has been favourable and that information has not been made available to the court. Therefore the redress from the other party is considered to be the matter to be kept uppermost in mind. That also is in keeping with the spirit of the legislation as it has been drafted.

The Scrutiny of Bills Committee also drew attention to a possible incorrect cross-reference. The Minister has indicated to me that this will be picked up by a Clerk's amendment. A further Clerk's amendment will be made to clause 24 of the Bill, which also refers inadvertently to paragraph 18(1)(a) of the Bill rather than paragraph 19(1)(a). That is similar to the matter that the Scrutiny of Bills Committee raised. A further matter in the explanatory memorandum is to be picked up. In relation to clause 39, annulment of declaration, the Supreme Court has been referred to. It is certainly not the intention of the Bill that that clause apply only to the Supreme Court. The intention of the Bill is that it apply to the court. Certainly, the expectation as far as implementation of the Bill is concerned is that it will occur in that way.

In conclusion, Madam Speaker, having gone through the process that I have gone through in considering this legislation, I am happy to support it at this time. Its passage will make a considerable difference to the lives of many people in the Territory, and I commend it to the Assembly.

MR DE DOMENICO (5.29): I also am happy to stand up and give my endorsement to the Bill. I do so because I think it is good legislation. It is not an endorsement or an erosion of any institution; it is a recognition that some people do wish to live in situations that do not reflect the traditional family model. I think that in the International Year of the Family it is very appropriate that we have provided this Bill.

I mentioned to Mr Connolly before that my concerns are organisations like L'Arche and Friends of the Brain Injured, who use a home on a full-time basis, most of the time, to look after other people. They make a magnificent contribution to our community. Their contribution, I dare say, can be seen as a personal commitment of support. That is exactly what it is. I am concerned as to how that sort of situation could be encapsulated within this legislation. I think the last thing we want is litigation between the two parties, or between third parties and either of the two parties involved. Even an organisation like Meals on Wheels involves a continued personal and committed contribution. Apart from those two questions, I think the Bill is excellent and we ought to get on with it.

MR CONNOLLY (Attorney-General and Minister for Health) (5.31), in reply: I rise to close the debate. At the outset I would like to thank members very sincerely for their contributions. About this time yesterday afternoon we were having a spat that arose over negativing the adjournment and carrying on for some period. There was a press comment that it resembled the sandpit of yesteryear, and perhaps we all deserve a collective rap over the knuckles for a bit of a slip. The way that the Assembly has dealt with this issue is a very pleasant contrast. This issue potentially could have been played in a divisive manner to split the community, to inspire fear and loathing, to divide community sector against community sector. It was all there for the picking. People could have gone off on

a sort of homophobic gay-bashing exercise; there could have been rhetoric about undermining the sanctity of the family. This could have been portrayed as a radical and dangerous piece of reform. I would like to pay particular tribute to Mr Humphries for the way that the Liberal Party has dealt with this legislation.

Mr Berry: Take it easy.

MR CONNOLLY: Mr Berry, I know that this is a fairly unusual thing to be doing. This Assembly is often looked at by some in the community and some who write and observe us as a bit of an amusement. The sandbox and similar analogies have been used. People in other places in the major capital cities often regard the ACT Legislative Assembly as a bit of a joke and I have heard us referred to on Sydney radio as the toy town parliament.

Parliaments in other parts of Australia will look at this landmark legislation with interest. As much as the legislation, they will look at the way that this community has dealt with this issue. We produced a discussion paper; we brought it into this Assembly; we had a debate so that views were outlined before the final legislation was brought in. The various groups in this parliament - it is an unusual parliament in that it has a high proportion of Independents, although that is perhaps not so unusual, looking at New South Wales - have been able to conduct a debate that has been rational. We have avoided extremist rhetoric. We have avoided the temptation to score cheap political points over what is an important community issue.

The issues that could be raised in terms of a fear campaign against this Bill were run through by Mr Humphries in his speech, and he answered each of those points. I need to add little to what he said. There are concerns about the breadth of the definition. Yes, it is drafted in a broad way because we do not want to focus on just sexual relations. We do want to catch the broader range of domestic relations, but you do look for the motivation. We are confident that this is not going to be overly broadened. We are confident that it is not going to undermine the family. It is neither an endorsement nor a refutation of anyone's personal lifestyle choices. We are not about making those judgments. We are saying that everybody should have easier access to what is, after all, an existing legal remedy.

A doctrine of equitable trust or equity has developed over centuries. The High Court has said that it can apply in the types of relationships that we are applying it to in this Bill. But, in order to secure justice, you have had to go off and hire lawyers to conduct litigation in the Supreme Court, with no guarantee of success. It is a high cost and risky exercise. People's access to justice should not depend on their access to expensive legal advice, and it should not depend on a State parliament making judgments, moral or otherwise, about whether they favour or do not favour the type of relationship that they are in.

At a time when there is international interest and extensive debate about the way another small parliament, that of Tasmania, has dealt with issues of homosexual law reform or the lack thereof, it is of credit to this community and this parliament that we have been able to run a debate on this issue and to run it sensibly; to talk about extending access to justice and the ability to enforce a right, instead of racing off on a tangent about gay marriages

and about condoning gay marriages, and getting lots of media headlines and dividing the community. I sincerely thank all members of the Assembly for that, and particularly the Opposition. It may not happen very often that I am so fulsome about the Opposition, but in this case everyone in this parliament should think that we have done a good job. It is an important issue that we have got through this parliament.

Mr Humphries raised an issue about deceased estates. It is correct to say that there is an anomaly here in that we are extending when one is alive a right that would apply to a married person or to other defined family relationships under our intestacy laws. It is something that the Government will look at. I think it would be prudent for us to see how this operates for a period. As to the issue of two years, yes, perhaps you could say that it is an arbitrary point; but you have to have a test. Again, let us see how this operates in practice. Given that this is landmark legislation, I think the Assembly will want to keep an eye on it. Perhaps amendments may be brought back, and perhaps some committee may want to look at how it is going. I am certain that other parliaments in other parts of Australia will take a great interest in this. We may well find that other parliamentary committees want to come to Canberra to see how we, the youngest parliament in Australia, have been the first to deal comprehensively with what is, as Ms Szuty and Mr Humphries stressed, a real human problem.

Ms Szuty stressed the point that she hoped that the Bill would be brought into operation quickly, and that is our intention because we have all received letters from constituents in various circumstances. It may be the person who has been caring for the aged relative; it may be the gay couple; it may be whoever. There are real human needs out there that this legislation will address. We should be proud that, as a parliament, we have done it in such a non-divisive way. Mr De Domenico's point was really about voluntarism, and we should not be seen to be undermining it. Really, the question was best answered probably in Mr Humphries's discussion about definitions. We are talking about motivation as well as just falling within a category.

We are confident that this legislation will work, and we are pleased that we have the confidence of the rest of the Assembly. Collectively, as an Assembly, I think we can be proud not just that we are introducing and passing through this parliament landmark law reform that will meet a real community need, but that we have managed to do it in a way that has been non-divisive and non-confrontational, working for the general public good. At the end of the day, as politicians - again, Mr Stevenson, do not take offence - we should be here acting for the general good. In this case I think we have done it.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

ADJOURNMENT

Motion (by Ms Follett) proposed:

That the Assembly do now adjourn.

Photo Caption Competition

MR HUMPHRIES (5.38): Madam Speaker, I have Mr Connolly right where I want him at the moment. He is feeling warm and affectionate, and is talking about all sorts of wonderful cross-party bipartisanship. It seems to me, Madam Speaker, a perfect time to announce the winners of the Terry Connolly photo caption competition. Members will recall that there was circulated a catching photograph of Mr Connolly from page 15 or so of the *Canberra Times* in the course of this week. I think it was Monday's *Canberra Times*. A great many entries have flooded in from all over the ACT, especially from the fifth floor. There were quite a few from the fifth floor.

Mr Wood: I did not get one.

MR HUMPHRIES: You did not? I am sorry. It is too late to enter.

Mr Stevenson: Which fifth floor?

MR HUMPHRIES: I am sorry; the second floor. I would like to announce some of my favourites from this list, Madam Speaker. In case members have not seen it, the caption is for a picture of the Minister behind bars at, I think, the Belconnen Remand Centre. Here are some of the entries:

. These weren't the bars I had in mind for the 3am curfew!

. If this is what community consultation results in, then forget it!

. A suspect (unnamed) awaiting trial at London's Old Bailey during the great Tim Tam Robbery Trial.

. His Honour, Mr Justice Berry presiding ...

I do not know what that means; and these are all anonymous:

. Health Minister, Terry Connolly, inspects the offices provided for him by bureaucrats at Woden Valley Hospital.

. New bail laws welcomed by AFP.

. How Wayne Berry's Private Member's Bill to amend our bail laws will affect you.

. In Your Dreams, Gary.

I am not sure where that one is from -

. There's more chance of a bed here than at Woden Valley Hospital.

. The MTA always get their man.

. The Left can't get me in here!

. Budget Lock-up.

. Solved: Canberra's 12 per cent Annual Crime Rate Rise.

. The Australian Prisoners Association awards 1994 Prisoner of the Year.

. A-G tests prison occupancy loadings - 1 Connolly per square metre limit.

. ACT Police Minister, Terry Connolly, inspects new office for Cabinet Secretary. "That's $11,000 well spent," Mr Connolly said.

. Finally, an alternative to Chris Grady when Lara and Madeline need to be babysat.

But, Madam Speaker, the winner of this august competition is the one that simply reads "Laurie Connelly".

Question resolved in the affirmative.

Assembly adjourned at 5.42 pm until Tuesday, 14 June 1994, at 2.30 pm

ANSWERS TO QUESTIONS

MINISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NUMBER.1237

Totalcare Industries Ltd Premises - Compliance with Occupational Health and Safety and Environmental Standards

Mrs Carnell - asked the Minister for Urban Services:

In relation to the premises in which Totalcare operates
(1) What monitoring mechanisms exist to ensure that toxins, noxious discharges- and other wastes do not exceed established environmental and occupational health and safety standards.

(2) On how many occasions in the last three years have there been instances where discharges exceeded the standards.

(3) What were the circumstances of the excess discharges, to what degree did they exceed the standards, particularly those which posed a health risk to staff, the public or the environment.

(4) What was the risk to members of the public or staff from these incidents. .

(5) What was the extent of injury or disability arising from these incidents and what expenditure has been made (a) to compensate employees and (b) to compensate members of the public.

(6) What action has been taken to rectify the failure of systems, equipment or human error that gave rise to these incidents.

(7) What action has been taken to ensure the full compliance with all relevant occupational health and safety and environmental standards.

(8) What was the cost of remedial and clean-up work.

(9) What expenditure will be necessary to ensure full compliance, with occupational health and safety and environmental standards.

1813

19 May 1994

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

(1) Parts 7.1.1 and 7.1.3 of the Clinical Waste Manual (1991) in conjunction with the Clinical Waste Act 1990, sets out incinerator design, monitoring, and Safety Device and Procedure requirements for the disposal of clinical waste. .

As required by the Act, monitoring and recording of primary and secondary chamber temperatures, obscuration, carbon. monoxide and residual oxygen is undertaken. Monitoring readouts are provided to the Environment Protection Service (EPS) of the Department of the Environment Land and Planning.

(2) Failure of some. monitoring devices has occurred on a number of occasions, with the EPS having been advised of these failures. The failure of monitoring devices in itself does not prevent operation of the incinerator at the correct temperature; with operating temperature being the primary control measure required by the Act, and for which other monitoring is a secondary control. On three occasions in the last three years, for failure or maintenance reasons, permission has been sought and granted by the EPS for the use of an older backup incinerator. The EPS monitored the use of the backup unit until the main incinerator was functional.

(3) Unable to identify particular circumstances, or whether excess discharges occurred as a result, as operating temperatures were maintained during use, see answer to question 2.

(4) No known health risk to staff, the public or the environment.

(5) N/a - see 4

(6) The Environmental Protection Service has requested repair or
. replacement of failed monitoring equipment and this has been undertaken or arranged.

(7) Employees are trained in correct operating procedures, protective clothing and equipment provided where necessary, monitoring equipment required by the EPS upgraded and replaced as necessary.

(8) N/a = see 2

(9) Nil. Additional expenditure other than that, required from time to time to maintain compliance with existing standards through equipment maintenance or replacement. Expenditure would be drawn from operating budgets provided through the business cash flow.

1814

MINISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 1247

Northbourne Avenue Flats -
Redevelopment Study

Mr Cornwell - asked the Mnister for Urban Services:

In relation to the Governments Better Cities Program, Evaluation Report 1991 - 93, page 19 states a final report of the Northbourne Avenue (Flats) Redevelopment Study will be produced by March 1994 -

(1) Is the Report available and, if not, why not.

(2) Can copies be made available to interested persons, including myself.

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

(1) & (2)

Finalisation of a draft report on the Northbourne Avenue Flats Consultancy has been delayed due to the complexity of options being examined by the consultants.

1815

MINISTER FOR HOUSING AND CO SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1253

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 LAMONT: The answer to the Members question is as follows
(1) Yes.

(2)&(3)The Minister for Housing and Community Services made a press announcement on 10 March 1994, outlined thus on the attached Press Release.

1816

QUALITY OF LIFE, SAFETY AND SECURITY AT THE ALLAWAH, BEGA AND CURRONG FLATS

The Minister for Housing and Community Services, Terry Connolly, today released a consultants report on the quality of life, safety and security issues, at the Allawah, Bega and Currong flats. The flats are situated close to Civic and are home to over 400 tenants of the ACT Housing Trust.

Ms Angela Sands report is based on extensive consultation with residents. It makes a number of recommendations for an integrated approach to improving the physical environment and security of these large flat complexes. The report also makes recommendations for encouraging tenant participation in the development of the improvements.

The ACT Housing Trust agrees with the integrated approach recommended in the report.

The Housing Trust is giving priority to the appointment of a community guardian service and a community development worker before the end of the 1993/94 financial year.

A project manager will be appointed shortly. A new housing officer has already been appointed to manage the flat complexes. The assets maintenance room at Currong Flats will be refurbished by the end of March to provide the project manager and the housing officer with an office in which to work on-site.

A firm of architects has been engaged to design improvements to the physical environment and to the accommodation for the community guardian service. The architects will also work from the office in Currong Flats.

The community room in Currong Flats has been opened for the use of the residents for three days per week. Communication with residents has continued through a regular residents newsletter.

Residents will be invited to participate on a steering committee to determine and oversee the scope of the works necessary to achieve an improved environment for all residents.

The Minister expressed confidence that the Sands report, the program of consultation, and the resources of the ACT Housing Trust would achieve significant improvements in the quality of life for residents of Allawah, Bega and Currong flats.

1817

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 1258

Housing Trust - O'Connor Property

MR CORNWELL: Asked the Minister for Housing and Community Services -In relation to your reply to question on notice No. 1200 concerning 13 Boobialla Street, OConnor - What is the cost of repairing the damage caused by the tenant who vacated on 3 February 1994.

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

The question raises matters of principle in relation to the operation of the Privacy Act 1988 which was enacted for the purposes of protecting the right of members of the community to personal privacy.

One of the purposes of the privacy legislation is to prevent the disclosure of personal information, except in circumstances permitted under the Act. In this respect, I refer you to Information Principle 11 which permits the disclosure of personal information only on specified grounds, including where the individual concerned has consented to its disclosure, or where the disclosure is necessary for the enforcement of the criminal law.

Although your question does not seek the name of the former tenant of 13 Boobialla Street OConnor, the persons identity would undoubtedly be apparent to some people, particularly neighbouring residents who may have known the tenant. Given that the answers to Questions on Notice are published in Hansard and are therefore available to the general public, it is not considered appropriate to provide the information you sought.

I am always happy to provide aggregated data on rental arrears to enable you to assess the Housing Trusts overall performance in tenant account management.

1818

MINISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 1260

Bushfire Protection Systems

Ms Szuty - asked the Minister for Urban Services

In relation to water-based bushfire protection systems such as the Hayes Bushfire Protection System

(1) Has the Minister or the Department of Urban Services made inquiries or requested information about this system or similar systems.

(2) Will the Minister seek to have such systems evaluated by building and development approval authorities as well as fire authorities of the ACT.

(3) Will the Minister arrange for information about this system and other like systems to be made available to interested members of the ACT community.

(4) Is the Minister willing, in particular, to ensure that this information is made available to the ACT rural community and to householders in the urban/rural interface areas of the ACT.

(5) Are there other measures that householders can take, without significant cost to the ACT budget and without detracting from the garden city/bush capital character, to protect themselves from the threat of bushfire.

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

(1) The ACT fire authorities attempt to keep abreast with changes in technology and equipment necessary for fire prevention and suppression. In doing this, the Rural Fire Service has obtained information on the Hayes Bushfire Protection System, as well as several other systems commercially available.

(2) It is not the role of the ACT fire or building and development authorities to evaluate such systems. Evaluations in Australia are done by agencies such as the Commonwealth Scientific and Industrial Research Organisation and the Scientific Standards Laboratories. -

The Australian Fire Authorities Council Inc, the body representing fire authorities throughout Australia, has developed (on an interim basis) a Code of Practice for the installation of domestic life safety sprinkler systems . in one and two family dwellings.

1819

The Hayes system and other similar systems will be checked to confirm that they at least meet the Code of Practice until the Australian Standard is available (possible later this years).

(3) The ACT Fire authorities have a policy not to provide names of individual companies or fire protection systems, as this could be perceived as a recommendation of that system over another. However the Community Safety area of the Emergency Management Group aims to educate the Community generally on appropriate fire prevention measures which they might take. If the community requests information on any system available, • the Community Safety area can provide a means of contact with distributors of such systems.

(4) As stated in the previous part of the question, the Community Safety area has and will continue to provide information which will enable the community to have increased safety from fires. -

(5) The ACT fire authorities, in conjunction with the Australian Fire Authorities Council, have developed a pamphlet outlining the precautions to be taken by householders to protect themselves, their family and their houses from bushfire. This pamphlet, called "Will You Survive" was widely distributed to high risk areas within the ACT following the recent NSW and ACT bushfires. Copies are available from the Community Safety area of the Emergency Management Group.

1820

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 1261

Telecommunications Towers

Mr Humphries - asked the Minister for the Environment, Land and Planning

(1) Is it a fact that a GSM-Mobile Communications Tower is being constructed atop Red Hill by Optus Communications.

(2) If so, is it a fact that this is one of ten such towers being constructed throughout the ACT by Optus.

(3) What consultation was undertaken by the Ministers Department with local residents about the-location of the tower.

(4) Can the Minister provide some background on his understanding of the specifications of these types of constructions.

(5) is there any evidence of these communications facilities causing disturbance to nearby residents electronic or telephone equipment.

(6) What guidelines exist for the placement of mobile communications towers within the ACT by the three mobile carriers.

(7) Where are the existing mobile communications towers located throughout the ACT and which ones are run by which companies.

(8) At what locations is it intended that mobile communications towers be constructed by which companies in the future.

(9) What process of consultation will be undertaken by the Ministers Department in respect of each of these constructions.

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

(1) Yes. Red Hill is one of four sites identified for Base Stations for the Canberra Mobile Telephone Network. The other sites are at Mount Rogers, Lyons and Mount Tuggeranong. The Mount Tuggeranong station has since been postponed to a later phase. The Red Hill and Lyons sites were in the Designated Area and were agreed to by the National Capital Planning Authority.

1821

(2) My Department has been informed of 13 existing and future sites for Optus towers within the ACT.

(3) The location of the towers was determined by Optus. The Commonwealth Telecommunications Act 1991 exempts Optus and all other telecommunications carriers from State, Territory and Local planning, land use, environmental and aspects of heritage laws during the building and operation of telecommunications networks.

(4) This is a technical matter about which limited information is available. The towers range from approximately 10 - 25 metres in height and are made of either concrete monopole or steel lattice construction. An antenna is located on top of the poles. Typical drawings of the towers and base station are attached.

(5) None that I am aware of. Optus in its environmental planning report stated:

" The radio signals emitted from a base station are non-ionising electromagnetic field energy which does not produce any chemical changes to objects within the field. All cellular communication emissions, under worst case conditions, would be well within the recommended maximum levels of exposure to
radiofrequency of 0.20 milliwatts per square
centimetres as prescribed in Australia standard
AS2772.1 - 1990: Radiofrequency Radiation - Maximum
Exposure Levels: 100 kilohertz (kHz) to 300
gigahertz (GHQ).

The proposed base stations would therefore pose no risk to public health from the base station operations."

(6) The guidelines are contained in the draft
Telecommunications National Code. There are also
requirements in the Hills, Ridges and Buffer Spaces
provisions of the National Capital Plan. There are
guidelines for towers in the Territory Plan but, as
explained above, they are not binding on the carriers.

7&8) There are proposals for 34 towers at present. A list of existing and proposed sites is attached. However, I have written to Mr Brian Howe MP, asking that the National Capital Planning Authority join with the ACT Government in exploring the possibility of massing and use of existing towers. I am hopeful this will reduce the overall numbers. (Complete list attached).

9) The location and construction of these facilities is a
matter for the operators under the Federal legislation.
My Department has a minimal say in their location and as
the decision making responsibility is not one for us it
would be inappropriate for my Department to run a
consultation program.

1822

My Departments role has been relegated to one of commenting. As Chair of ANC I have written both to the Prime Minister and two Commonwealth Ministers for Communications. In addition, on behalf of the ACT I made extensive representations to AUSTIN concerning this matter so the Federal government is well aware of our dissatisfaction with this legislation.

The carriers have been prepared to make localised changes in siting to reduce the visual impact but they have emphasised the need to meet technical requirements.

1823

TERRITORY LAND

Gungahlin (Block 468) Telecom (Approved) Not Built
Mt Rogers/Fraser (Block 2 Section 63)
Optus Built
Mitchell (Block 1, Section 6) Telecom Built
Melba (Block 6, Section 26) Optus (Approved) Not Built
Holt (Block 39, Section 50) Vodafone Built
Belconnen (Block 2, Section 14) Vodafone Built
Scullin (Block 529) Telecom Built
Dickson (Block 18, Section 72) Opium - Built
Ainslie (Block 5, Section 110) Vodafone Built
Braddon (Block 19, Section 20) Telecom (Approved) Not Built
City (Block 22, Section 26) Optus (Approved- Not Built
Amend)
Yarralumla (Section 102) Optus Built
Fyshwick (Block 1, Section 6) Vodafone (Approved) Not Built
Weston (Block 4, Section 81) Vodafone Built
Stirling (Block 15, Section 1) Telecom (Approved) Not Built
Kambah (Section 286) Vodafone Built
Wanniassa (Block 9, Section 126) Optus Built
Greenway (Block 4, Section 9) Vodafone Built
Richardson (Block 1, Section 450) (Approved) Not Built
- Vodafone
Bonython (Block 3, section 64) Vodafone Built
Tuggeranong Hill/Theodore (Block 12, Not Built
Section 682) Telecom
Tuggeranong Hill/Theodore (Block 12, (Not Approved) Not Built
Section 682) Optus
Gordon (Block 1, Section 364) Telecom Built

1824

DESIGNATED AREAS (NAMPA APPROVAL ASSUMED) 18/05/94

Ainslie (Block 5, Section 110) Telecom Not Built
Belconnen (Block 1529) Optus Built
Yarralumla (Block 3, Section 22) Vodafone Not Built
Pialligo (Block 1, Section 31) Optus Built
Red Hill (Block 8, Section 57) Optus Not Built
Deakin (Block 30, Section 35) Telecom Not Built
Optus Built
Lyons (Block 1, Section 61) Optus Not Built
Chifley (Section 45) Vodafone Not Built
Isaacs Ridge (Block 594, Section 5) Optus Not Built
Chifley (Block 2, Section 45) Optus Not Built

1825

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MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1262

Housing Trust - Belconnen Property

MR CORNWELL - Asked the Minister for Housing and Community Services In relation to 13 Illawarra Court, Belconnen
(1) Is it a fact that this ACT Housing Trust property was trashed prior to the departure of the tenants.

(2) Did the tenants leave (a) of their own volition; (b) were they evicted; or (c) did they abscond.

(3) What was the cost of repairs for wilful damage to the property to make it habitable for other tenants.

(4) Does the Trust have a forwarding address for the departed tenants.

(5) Will financial restitution for wilful damage be sought; if so, when; if not, why not.

MR LAMONT - The answer to the Members question is as follows
(1) & (2) The question raises matters of principle in relation to the operation & (3) of the Privacy Act 1988 which was enacted for the purposes of protecting the right of members of the community to personal privacy.

One of the purposes of the privacy legislation is to prevent the disclosure of personal information, except in circumstances permitted under the Act. In this respect, I refer you to Information Principle 11 which permits the disclosure of personal information only on specified grounds, including where the individual concerned has consented to its disclosure, or where the disclosure is necessary for the enforcement of the criminal law.

Although your question does not seek the name of the former tenant of 13 Illawarra Court, Belconnen, the persons identity would undoubtedly be apparent to some people, particularly neighbouring residents who may have known the tenant. Given that the answers to Questions on Notice are published in Hansard and are therefore available to the general public, it is not considered appropriate to provide the information you sought.

I am always happy to provide aggregated data on tenants generally to enable you to assess the Housing Trusts overall management performance.

(4) Yes.

(5) It is the practice of the ACT Housing Trust to recover from tenants the cost of repairing wilful damage which they have caused to a public dwelling. Tenants are not expected to pay for repairs which are attributable to fair wear and tear.

1830

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1263

Housing Trust Properties - Flat Complexes

MR CORNWELL - Asked the Minister for Housing and Community Services - What action has been taken to upgrade lighting in open spaces, laundries and car parks at the Allawah and Bega Flats following an undertaking in The Canberra Weekly of 10 March 1994 that such improvements would be undertaken within a month.

MR LAMENT - The answer to the Members question is as follows -

A Steering Committee has recently been established to make recommendations for improving the amenity, safety and security of the Allawah, Bega and Currong Flats. The Steering Committees membership includes residents from the flats and senior managers from the ACT Housing Trust. The Committees independent chairperson is Ms Betsy Gallagher.

On 3 May 1994 it was my pleasure to officially launch this tenant participation strategy at a public meeting at Currong Flats. I made it clear then that the projects success would depend on the residents of the three flats complexes being consulted about what works should be undertaken and what priority should be assigned to each of those works. This will be the Steering Committees responsibility.

An architect has held the first intensive round of discussions with tenants on options for landscaping, improved lighting along the paths and in the common areas, and secure courtyards. These ideas have been met with enthusiasm by the tenants. Some of the working drawings now need Planning Authority approval. The process of involving tenants in other aspects of the program, such as laundries and entry areas, is an ongoing one. The architect and the construction manager are working on site.

1831

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 1264

Housing Trust - Allocation Criteria

MR CORNWELL: Asked the Minister for Housing and Community Services -Is any consideration given to the age of prospective tenants as to the suitability of accommodation when allocating ACT Housing Trust property and is disability also taken into account; if not, why not.

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

Yes, modifications such as grab rails, shower recess, ramps etc are also made if a tenant is experiencing difficulties in mobility on access. Tenants are also able to transfer to more suitable accommodation, should their present dwelling create mobility problems.

1832

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 1266

Housing Trust Properties - Carpeting

MR CORNWELL: Asked the Minister for Housing and Community Services -

(1) How many (a) houses; (b) flats and (c) bed-sitters owned by the ACT Housing Trust are not carpeted.

(2) What procedure exists to carpet these properties and when is it estimated this carpeting will be completed.

(3) Approximately how many of these properties are carpeted annually.

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

(1) This information is not available.
The Housing Trust has 12,412 dwellings; It has fitted carpet to approximately 5,000 dwellings as part of its Carpet, New Construction and Spot Purchase programs; In addition, 3,183 flats and bed-sitter units were fitted with floor coverings (mainly lino but some with carpet) at original construction or purchase; - Of the remaining 4200 dwellings (approximately), an unknown number would have had floor coverings fitted privately by tenants.
(2) and (3)

The procedures for carpeting are based on the following priority system:

- Priority 1. - Tenants with very young children in houses with bare concrete floors, or tenants who have established health problems requiring carpet;
- Priority 2 - Tenants of houses not included under Priority 1;
- Priority 3 - Tenants of flats or bed-sitter units.

The number of dwellings carpeted annually varies depending on program priorities and the availability of funds in each annual Budget. Approximately 440 dwellings will be carpeted in 1993/94 including instances where carpets are purchased from tenants on vacation of their dwellings. It is estimated that a further 460 dwellings will be carpeted in 1994/95. Completion of the program will depend on the level of resources allocated and on the decisions of future governments.

1833

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1267

School Furniture - Disposal

MR CORNWELL - asked the Minister for Education and Training on 21 April 1994:

(1) Is it a fact that on 19 April 1994 a Government truck ACT 200-106 was dumping furniture from your Department at the Mugga Lane tip.

(2) Was the furniture being broken up in the vehicle before disposal; and if so, why.

(3) Did the furniture consist of school desks, computer desks and stackable chairs; and if so, in what quantities.

(4) Was the broken up furniture buried immediately.

(5) Why was the furniture not put up for auction or given to Revolve.

MR WOOD - the answer to Mr Cornwells question is:

(1) Yes.

(2) No.

(3) The furniture consisted of 95 chairs (71 student; 5 swivel; 5 lounge; 4 sled; and 10 banks of auditorium seating), and 20 tables (8 technical drawing; 5 science; and 7 coffee tables).

(4) To the best of my knowledge the furniture would have been buried soon after dumping at the tip.

(5) I am advised that the furniture was not put up for auction or given to Revolve because it was considered irreparable and dangerous.

1834

MINISTER FOR HEATH

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1268

School Camp - Food Poisoning Incident

Mrs Carnell - To ask the Minister for Health - In relation to public health
(1) Was it correct that year 5 students of the St Anthonys School, whilst attending a school camp recently, became victims of food poisoning.

(2) Was it correct that the camp was conducted at a property owned by the ACT Department of Education and Training.

(3) Has any action been taken by health authorities to investigate this particular incident; if not, why not.

(4) If this incident has been investigated what were the findings of the report, is there any liability or negligence on the part of the owner of the property; if so, what action has or will be taken under the relevant health legislation.

(5) What advice has been given to the school, to parents of children or teachers or staff affected by this incidence.

(6) Is there any reason that the investigation findings cannot be made available to the Assembly; if not, will you table in the Assembly the findings of the investigation.

Mr Connolly - the answer to the Members question is:

(1) An incident did occur where year 5 students of the St Anthonys School did suffer from symptoms similar to those of food poisoning.

(2) It is correct that the camp was conducted at a property owned by the ACT Department of Education and Training. The property is known as Birrigai.

(3) Officers of the Public and Environmental Health Service of the Department of Health responded to the incident immediately they were notified, which was within hours of the occurrence.

(4) The investigating officers found the premises to be well maintained and considered that there was no evidence of negligence on the part of those operating the property. A detailed questionnaire was provide to the families of all children who attended the camp, the results of which were used to assess the possible method of spread of the infection.

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(5) Both written and oral advice was given to staff, parents and teachers affected by this incident, together with a thank you letter to parents who co-operated in the questionnaire. The Principal of St Anthonys School was contacted by the Executive Director Schools (Tuggeranong) who explained the investigation process.

(6) The findings of the investigation revealed that in view of the secondary infections; infections spread from person to person whilst at home and in all cases in this outbreak from school child to parent, it was most probable that the incident was caused by a virus. Samples of food and vomit showed no evidence of a food borne illness.

1836

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1269

Gleneagles Estate - Sedimentation Pond

Mr Cornwell - asked the Minister for .the Environment, Land and
. Planning in relation to the dam/sedimentation pond recently constructed in Gleneagles Estate

(1) On what date did construction begin and was such work begun by Government employees or a private contractor.

(2) Was.a different contractor enlisted to complete the job; if so, on what date did that contractor commence .and finish his contract.

(3) What was (a) the total cost of the job broken-down into
Government employee salaries; (b) the.cost of running
Government owned, machinery (per hour and total) and (c) the
costs charged by the. private contractor. .

(4) Why was the job not completed by the group of workmen who
began it. ,.

(5) What was (a) the. original estimate for the job timewise and.
moneywise; (b) the cost in total and (c) how long was
eventually taken. .

(6) Who designed the dam and who was responsible for overseeing its construction.

Mr Wood - the answer to- the Members question-is as follows:. (1) A drop structure was constructed on Allens Creek commencing on 21 February 1994; the project was.commenced by Government employees.

(2) Yes the contractor commenced commenced on 15 March 1994 and finished on
. 22 April 1994.

:(.3) The total cost of the project was. $64; 323.94. . .
(a) $19 , .16 2 for .government wages-; - .
(b):- CASE 1150E bulldozer $16.15 per hour $5,814.00 -total;=..:_
.-CASE loader-$12.39 per hour $2,230.00 total;
CASE tractor with mini scraper $10.50 per hour .$945:00 _ ..
.; .total;- _: . . : _ . . _. . _
CASE backhoe $10.56 per hour, $422.00 total. -.

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(c) $35,750.94

4) Because hard rock and large quantities of ground water were encountered the small CASE bulldozers were unable to cope, necessitating the hire of a larger bulldozer and track . excavator.

(5) (a) Six weeks for the excavation with an estimated cost of - -
$36,-000; -
(b) $64,323.94; -
(c) Two months.

(6) Staff of the ACT Parks and Conservation Service, Department of the Environment, Land and Planning.

1838

MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1270

Government Schools - Cleaning Contracts

MR CORNWELL - asked the Minister for Education and Training on notice on 10 May 1994:

In relation to cleaning of schools-

(1) Is the work contracted out; and if so, how many contractors are employed in the government school system.

(2) Is each school cleaned on a separate contract; if so, how many contractors hold multiple contacts for ACT school cleaning.

(3) Do schools have the right to negotiate their own cleaning contracts or is it done by central office.

(4) How many hours per day are contractors required to work and what is the hourly rate.

(5) What procedures exists to ensure (a) the hours are worked and (b) the quality of the work is up to standard.

(6) If the hours are not being worked or the work is not up to standard, what action is taken and by whom.

MR WOOD - the answer to Mr Cornwells question is:

(1) Cleaning of ACT government schools is undertaken by private contractors. There are currently 33 separate cleaning contractors engaged by the department.

(2) There is a mix of single school and multiple school contracts. At the present time there are a total of 74 separate contracts, 14 of which include multiple schools. There are 15 contractors who currently hold more than one contract.

(3) Cleaning is administered centrally by the departments Property Management Section. Contractors are selected through a public tender process. The cleaning of each preschool is arranged by their respective parent associations.

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(4) As a part of the tender schedule for each contract it is the responsibility of the contractor to assess the hours per day that will be required to undertake the specified cleaning duties at the school. The contract requires that all employees of the contractor who perform cleaning services are paid in accordance with award rates. The current hourly rate for a school cleaner working from 4pm to 8pm as per the Caretakers, Cleaners and Lift Drivers (ACT) Award is $12.97.

(5) Schools are supplied with a cleaners attendance book which each cleaner is required to sign upon entering and leaving. When a contract is due for renewal the Principal is provided with a set of contract documents which include a comprehensive list of the cleaning duties to be undertaken by the contractor. On a day to day basis schools are able to determine if the standard of cleaning provided is in accordance with the duties required by the contract.

(6) Minor problems are generally resolved directly between the contractor and school staff. More serious contract breaches or recurring problems are referred to the Property Management Section by the school. An investigation is undertaken by Property Management which may include inspections of the school to assess the standard of cleaning. The next step to resolve serious or continuing problems is to take formal action against the contractor through the departments Tender and Contract Board. Contractors providing unsatisfactory performance are required to meet with the Tender Board and show sufficient cause why their contracts should not be terminated. Failure to improve performance results in termination of the contract which may also lead to a contractor being excluded from future school contracts.

1840

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING _

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1271

Motor Sports

Mr Westende - asked the Minister for the Environment, Land and Planning -In relation to motorsport

(1) Is the Government in favour of motorsport in the ACT.

(2) Does the Government object to the Australian Standards being applied to motorsport in the ACT.

(3) Does the Government agree that it would be desirable to have motorsport in the ACT of international standards.

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

(1) The Government has shown by the studies being undertaken to identify a suitable site for the wide range of motorsports that it is not only in favour of motorsport, but has substantially supported the development of motorsport in the ACT. The Government recognises the potential economic benefits of motorsport events to the Territory, as well as the value of motorsport activities as a recreational interest of the ACT community. ,

We have assisted the, establishment of the ACT Motorsport Council as a .peak representative body- for motorsport groups and have provided grants of $17,500 in 1993-94. for _ motorsport activities

(2) "Australian Standards" is the copyright of Standards Australia. Standards Australia does not have any standard . in respect of permissible noise levels from motorsports. Standards Australia determines the methodology to be used in carrying out-noise measurements. The methodology set out in the ACT Noise Control Manual is in accordance with that determined.-by Standards Australia..

The Confederation of Australian Motor. Sport (CAMS) has a trackside limit for.managing motorsport noise I have no objection to-ACT clubs. operating-under the CAMS.limit of. Lax = 95dB(A) at 30 metres providing-that.the provisions of the- Noise Control Act 1988- are met. These provisions are . designed to permit adjoining landholders quiet: enjoyment of. their.-land:

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In the present study into alternative sites-for motorsports the Government is aiming to achieve a result which will enable motorsports to comply with the provisions. of the Noise Control Act 1988 when operating at the CAMS limit. _ .

(3) The matter of standard of facilities rests with the relevant motorsports clubs who will plan and develop facilities to. the standard.appropriate to meet current and future needs. The clubs have identified their requirements in the site. selection study and planning is being undertaken based on these recognised needs.

The Government is aware-of the potential benefits of hosting major motorsport events and is working with the ACT Motorsport Council to provide suitable standard facilities to maximise these benefits. Some of motorsports needs may be best met by international standard facilities, others by club or national standard facilities.

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1272

Housing Trust - Allocation Criteria

MR CORNWELL - Asked the Minister for Housing and Community Services In relation to the ACT Housing Trust

(1) Does the Trust accommodate people on remand in inner city accommodation so they can more easily report to police.

(2) Is it Trust practice to consider the age of applicants in relation to other residents when allocating bedsitters or flats.

(3) Does the Trust have bedsitter or flat accommodation, other than aged persons units, available specifically for elderly tenants and, if so, where.

(4) Are there any age restrictions upon people seeking accommodation in the Allawah, Bega and Currong Flats, the McPherson, Lachlan, Kanangra and Bun-de Courts.

MR LAMONT - The answer to the Members question

(1) No. A person who is remanded, but not in custody, is able to negotiate reporting arrangements, and can for example, report to any police station in the ACT, or Queanbeyan if appropriate.

(2) Yes, where applicable, the Housing Trust considers the age of the applicants as a factor in the process of making an appropriate allocation.

(3) Yes, the Housing Trust has Aged Persons Flats in Ainslie, Barton, Griffith and Reid.
is as follows -
(4) No.

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MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1273

Housing Trust - Rent Relief Program

MR CORNWELL - Asked the Minister for Housing and Community Services -In relation to rent relief tenants in private rental accommodation -

(1) Are all such rent relief tenants on the waiting list for ACT Housing Trust accommodation.

(2) If such a rent relief tenants fails to pay the rent relief money to the landlord, are they removed from the Trust waiting list.

(3) If a rent relief tenant is evicted from private rental accommodation for damaging the property, are they removed from the Trust waiting list.

(4) If the answers to (2) and (3) are in the negative, why is this so.

(5) If the Trust is unable to confirm if tenants are in such circumstances as at (2) and (3), why is this so.

MR LAMONT - The answer to the Members question is as follows -

(1) Yes. The purpose of rent relief is to assist private tenants to meet their rent commitments while they await the allocation of public housing.

(2) No.

(3) No.

(4) A person can only be removed from the waiting list in accordance with the provisions of Public Rental Housing Assistance Program. The payment of monies by a private sector tenant to their landlord and the maintenance of their property are matters which are specified in the contract between the landlord and the tenant. The Housing Trust is not a party to the contract.

(5) The Housing Trust determines whether payment of rent has been made by rent relief applicants prior to approving an application. The Housing Trust is not a party to the contract between a private sector landlord and their tenant and has no legal role in the relationship between the landlord and tenant.

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MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1274

Housing Trust - Relocation of Tenants of Demolished Properties

MR CORNWELL - Asked the Minister for Housing and Community Services -

(1) When a Trust property is demolished and replaced by aged persons units or other medium density accommodation, are the tenants of the demolished house(s) offered accommodation in the new buildings.

(2) Does the Trust actively encourage nearby Trust tenants who are occupying larger homes, perhaps older people whose families have moved away, to move into the newly built properties thus providing them with "more appropriate" accommodation while maintaining their networks within their established local area; if so, how; if not, why not.

MR LAMONT - The answer to the Members question is as follows -

(1) Yes.

(2) Yes. In appropriate circumstances the Housing Trust encourages tenants to relocate to accommodation in redevelopments nearby. A Housing Trust officer will meet with suitable tenants and explain the advantages of relocation. A tenants suitability for relocation depends on the nature of the redevelopment.

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MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1275

Housing Trust - Maintenance Budget

MR CORNWELL - Asked the Minister for Housing and Community Services -
In relation to the Ministers response to Question on Notice No. 1251 that the ACT Housing Trust does not overspend its budget by $3.5 million per year -

(1) How does the Minister explain the discrepancy to reported comments by Mr Ken Horsham Community Times, 10 March 1994, that the Trust budgets $16.5 million per year for maintenance yet within one page of that statement is information that the Trust spends $20 million per annum on maintenance.

(2) Which figure is correct.

MR LAMONT - The answer to the Members question is as follows -

(1) I cannot explain the cause of errors of fact which appear in newspaper articles.

I can only speculate that the newspaper report to which you refer confuses the ACT Housing Trusts annual Repairs and Maintenance budget of $16.406 million (Maintenance $14.045 million and Asset Improvement $2.361 million) with that of the Property Services budget of $2.274 million and the Major Upgrades budget of $0.950 million. The total of these budget items is $19.63 million.

(2) $16.406 million.

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19 May 1994

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1276

Housing Trust Removalist Contracts

MR CORNWELL - Asked the Minister for Housing and Community Services -

(1) Why were Department of Administrative Services (DAS) vehicles, observed recently moving furniture into 22 Mindade Street and 11 Looranah Street Narrabundah (at least on a of which is an ACT Housing Trust property), undertaking this work.

(2) Does DAS regularly act as a removalist for the Trust.

(3) Are removalist contracts for the Trust subject to tender and how often are tenders sought.

(4) If such contracts are not subject to tender, why not.
MR LAMONT - The answer to the Members question is as follows -

(1) The property at 11 Looranah Street, Narrabundah, is an ACT Housing Trust dwelling. The Housing Trust has had no involvement with the use of a DAS vehicle for the alleged purpose concerning this property.

The property at 22 Mindarie Street, Narrabundah, is not owned by the Housing Trust.
(2) No.
(3) Contracts for removalists engaged by the Housing Trust are not subject to a formal tender process, but three quotations are obtained on most occasions.

(4) Contracts for removalist services are not subject to tender because the Housing Trust removes tenants at its own cost on only a few occasions. Removal requirements vary, and the system of obtaining quotations works well.

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ATTORNEY GENERAL

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1277

Consumer Affairs - House Moving Operation

MR CORNWELL- Asked the Attorney General-In relation to The Investigators program (ABC TV Tuesday 2 May) about a house moving operation in the ACT by a Mr Martin-

(1) Is the Government investigating the claims and; if not, why not.

(2) Is Mr Martins company registered in the ACT?

(3) What action can be taken to prevent a repetition of the events portrayed in the program involving the Murray and the Jones families.

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

(1) I have been informed by the Director of Consumer Affairs that the Bureau has not received a complaint concerning the matters raised on the ABCs The Investigators program hence no investigations have yet occurred. The Government was unaware of the problem until it was brought to light on this program.

(2) No. Mr Martin does not have a business registered in the ACT nor has he a company listed with the Australian Securities Commission.

(3) The Consumer Affairs Bureau is seeking a copy of the program from ABC Television. The Bureau will endeavour to contact the parties involved so the precise facts of each incident can be ascertained. The Bureau can then determine what action should be taken.

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 1278

Nicholls Joint School Campus

Mr Cornwell - asked the Minister for the Environment, Land and Planning - In relation to the joint Government/Non-government school campus to be established at Nicholls -

(1) What area of land (block and section numbers, and area in hectares) was originally set aside for the two separate schools.

(2) What area of land (block and section numbers, and area in hectares) has now been set aside for the joint campus.

(3) What type of development or use will be permitted on the "excess" parcel of land.

(4) Does the reduced area of land to be used for the joint campus represent a saving to the Treasury.

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

(1) The Territory Plan allows for 3.7 hectares for each primary school. Block and section numbers have not yet been allocated to this part of Gungahlin.

(2) Negotiations are still proceeding between the Department of Education and Training and the Catholic Education Office on the details, but it is likely that at least a library and hall will be shared in addition to parking and playing fields. If agreement is reached preliminary investigations indicate that joint schools would result in potential land savings of 2.6 hectares.

(3) The smaller site required by joint schools would release one site on the south-east and another on the north-east of the schools. These excess parcels of land are likely to remain under the Community Facility land use policy in view of their location.

(4) Yes. Not only will the operational costs be lower but the site savings mean that additional community uses can be located on the original school sites. This means that less community land will be required elsewhere in Gungahlin.

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MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO,1282

Motor Sports Sites

Mr Westende - asked the Minister for the Environment, Land and Planning -In relation to the 4 sites under consideration for a motorcycle complex to replace Fairbairn Park
1. What are the terms of reference for the acoustic studies
on the four sites.

2. On what date(s) were the acoustic studies on the four
sites commenced.
3. What was the budget set aside-for the acoustic studies.
4. To date, how much has been spent on the acoustic studies.

Mr Wood - the answer to the Members question is as follows
1. To determine whether any of the four sites

(a) is suitable for use as a motorsports facility, without specific noise attenuation treatments; or

(ii) might be suitable with specific noise attenuation treatments and to provide the order of cost estimate for such treatments.
2. January 1994.
3. No specific budget was set aside for the acoustic studies.
Tenders were invited for an acoustic consultancy and the
lowest tender was accepted.
4. $25,000, has been spent to date on the acoustic
consultancy.

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1284

St Andrews Church, Forrest - Car Park and Landscaping Works

Mrs Carnell - asked the Minister for the Environment, Land and Planning in relation to St Andrews Church, Forrest

(1) Is it the case that the Government has recently expended monies to provide a carpark and landscaped grounds for St Andrews Church at Forrest; if so (a) what was the cost of this carpark, landscaping and any other works, such as guttering, road closures etc; (b) which agency was responsible for the payment of this work; (c) who organised the work and by whom was it carried out; (d) what tendering arrangements were followed in relation to the carrying out of this work; (e) under what program was the work paid for and had this money been provided for in the Budget process; if not (i) why not and (ii) what projects were foregone to fund these works; (f) was the Government responsible to perform, and/or pay for the work and what was the basis of this liability and (g) are there other projects where the Government may be responsible to carry out such extensive works on behalf of non-government organisations which are similar to this project.

(2) Is it the case that the Acting First Assistant Secretary, Land Division, a senior official in your Department, was involved in the approval of monies to be spent, or in requesting the works to be performed in relation to this church, or that officers answerable to him were responsible for the works.

(3) Is this officer in any way personally involved with the church, as an Elder, a member of the congregation; if so (a) was a conflict of interest disclosed at any time; if not, why not; (b) was any action taken against the officer if a conflict of interest existed; and (c) what rules exist to deal with the disclosure of conflicts of interest, should officers involved in such conflicts not participate in the deliberative process.

(4) What action will the Minister take to ensure any situations involving conflict of interest do not occur in the future.

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

(1) No. Stage 2 infrastructure works of the York Park Project was totally funded by the Commonwealth Government and included closure of the State Circle to Canberra Avenue slip road which was a major entry/exit to the Church of St Andrew. To overcome the problems this created and by way of compensation an improved entry/exit was provided off State Circle, the internal traffic circulation was reorganised requiring reconstructing of carparks and associated landscaping.

The Department of the Environment, Land and Planning on request of the National Capital Planning Authority handled the statutory processes associated with the slip road closure.

(2) No. The officer concerned had no involvement in requesting the works nor was he involved in the approval of funds relating to the works. Moreover, no officers responsible to the officer had any involvement with these works.

(3) Yes.

(a) In accordance with usual procedures, the then Secretary of the Department of the Environment, Land and Planning was advised that the officer was a member of the Church.

(b) The disclosure by the officer of his involvement with the Church was consistent with his obligations under the Guidelines on Official Conduct. If a private interest is disclosed there can be no conflict of interest because the officers supervisors are in a position to monitor the transaction.

(c) Senior Executive Service Officers within the ACT Government are asked to provide a Statement of Registration of Personal Financial and Business Interests and are bound to adhere to the principles set out in the Code of Conduct Proposed by the Bowen Report on Public Duty and Private Interest.

The Statement of Registration of Interests requires Senior Executive Service Officers to specify any personal interest whether that interest is pecuniary or otherwise, conflicts, or may reasonably be thought to conflict, with their public duty. This requirement was complied with in this case. In addition Land Division of my Department has developed a Code of Ethics requiring officers to disclose an interest which directly or indirectly conflicts or might reasonably be thought to conflict with their public duty, or improperly influence their conduct in the discharge of their responsibilities in respect to some matter with which they are concerned.

Land Division officers are also required to be aware of, and apply in a responsive manner without bias or prejudice, all the legislation, policies and procedures applying to the creation and management of the leasehold estate.

Rules to deal with conflict of interest are in accordance with Public Service practices and may involve:

Change of duties;

Transfer to another position, either temporarily or permanently;

Request that the person divest themselves of the interest.

(4) There was no conflict of interest in this particular case and my Department has excellent arrangements in place to ensure these do not occur.

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MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 1287

Residential Redevelopment - Griffith

Mr Cornwell - asked the Minister for the Environment, Land and Planning -

(1) Why were guidelines for residential development, particularly requirements to maintain streetscapes, not observed in the redevelopment of 67 Flinders Way, Griffith (Block 1 3 Section 10) .

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

(1) On 17 March 1993 the lessee of Block 13 Section 10 Griffith (67 Flinders Way) submitted a Design and Siting application for the demolition of an existing building and the construction of a new dwelling. The application was assessed against the Design and Siting Policies and was found to exceed the 0.35 plot ratio. Consequently, the applicant was required to undertake public notification as required by the Land (Planning and Environment) Act 1991.

The public notification period closed on 14 April 1993 and no written objections were received.

As the block was on the List of Places Proposed for Inclusion in the Interim Heritage Places Register, advice was sought from the ACT Heritage Council. The Council advised the ACT Planning Authority that it had no objection to the proposed work.

The application was approved on 23 April 1993 and the decision took effect on 20 May 1993.

It should be noted .that the new house was approved prior to the commencement of the Territory Plan and the formulation of Guidelines for Residential Redevelopment in the Forrest/Red Hill/Deakin/ Griffith Historic Areas.

I am satisfied that the application went through the proper processes and was correctly assessed against the Design and Siting Policies. No appeals were lodged with the Administrative Appeals Tribunal.

1854

19 May 1994

MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1288

Police Drag Racing Team - Health Promotion Fund Grant

Mr Cornwell - asked the Minister for Health:

Is it true, as stated in the Northside Chronicle in the week ending 18 April 1994, that the Ministers Department gave a $3 000 grant to a group of ACT police officers to help them buy a drag car?

Mr Connolly - the answer to Mr Cornwells question is:

$3 000 from the Health Promotion Fund was provided to the AFP Drag Racing Team in December 1993 as part of the highly successful "Cruize Without Booze" promotion at the 1993 Summernats.

The funds were provided as sponsorship of the drag car already under preparation by the Team, not as assistance to buy a car.

The sponsorship involved the car being signwritten with the "Cruize Without Booze" and "QUIT" messages, and being displayed at the 1993 Summernats. In addition, the car will be raced in motor sport events in the ACT and surrounding region until February 1995, and may be used at other promotions undertaken by the Health Promotion Fund.

The sponsorship is similar to successful promotions in Victoria, which have improved the relationship between motor enthusiasts and the Police. The exhibition of the car at the 1993 Summemats and the year-long promotion is expected to have similar effects in the ACT, as well as continuously promoting important health messages to an identified target audience over the period.

1855

MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1292

Watson Baby Health Clinic

Mr Cornwell - asked the Minister for Health:

(1) What was the annual operation costs (excluding staff) of the Watson Baby Health Clinic for the 1992-93 financial year.

(2) How much money will your Department save each year by closing the Watson Baby Health Clinic.

Mr Connolly - the answer to Mr Cornwells question is:

(1) The Watson Baby Health Clinic was open for 2.5 hours per week during 1993.

The building is the property of the Department of Education. The annual cost of operating Watson Baby Health Clinic was approximately $4000. This included: power, heating, telephone, equipment, and repairs and maintenance.

(2) The Community Nursing service allocates resources to Baby Health Clinics based on birth rates. Watson is a low demand area and staffing resources have been reallocated to open a clinic at Conder which is a high demand area.

A decision was made three years ago to move towards regional clinics. Gradually, clinics have been consolidated to maximise resources and provide more options for the community. This has included longer hours of operation, the trialing of extended and evening services, opening of new clinics in high demand areas and establishment of two family care centres.

The $4000 savings in operating costs from Watson will contribute to the improvements in services, such as establishment of the Northside Family Care Centre and the evening clinic service at Kippax which was established to increase access to services for working mothers.

1856

MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1293

Baby Health Clinics

Mr Cornwell - asked the Minister for Health:

(1) Has your Department kept records of the number of babies brought to baby health clinics each week; If so (a) what were the weekly attendances for each northside clinic for the two months prior to the closure of the Watson Clinic and (b) what were the attendance figures at the remaining clinics in the two months following that closure?

Mr Connolly - the answer to Mr Cornwells question is:

(1) The Community Nursing Service maintains a record of attendance at clinics which are reported monthly. In the two months prior to closure the figures for Watson Clinic were 26 occasions of service for January, an average of 7 visits per week and for February 46 occasions of service, an average of 12 visits per week.

The total attendance rates for the North Canberra area for the two month period prior to closure of Watson were 683 occasions of service, and 754 for the two months following closure.

1857

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION No 1294

Housing Trust - Sale of Palmerston Land

MR CORNWELL - Asked the Minister for Housing and Community Services -In relation to your letter to me concerning blocks 7 and 8, section 142 and blocks 8 and 9, section 143 of Palmerston that the ACT Housing Trust has decided not to sell - Has one block subsequently been sold for approximately $68,000 or $20,000 above the original price; if so, why did your letter indicate otherwise.

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

No.

1858

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1296

Abattoir Holding Paddocks

Mr Cornwell - asked the Minister for the Environment, Land and Planning -

In relation to your response to question on notice No. 1070 that the lease of the "Abattoir Paddocks" near Oaks Estate was expected to be publicly advertised and auctioned in the second quarter of 1994 -

(1) Has the comprehensive survey to determine the unimproved value for rates setting etc. been carried out.

(2) If so, (a) what value has been placed on the area; (b) what lease conditions have been prepared and (c) what rates and land tax will be charged.

(3) If not, why not, and when will the survey be completed.

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

(1) No. The definition of the boundary of the site to be leased is still being finalised.

(2) No value has been placed on the area. The unimproved value of the abattoir paddocks cannot be determined until the site has been surveyed and lease conditions are available. Lease conditions have not been finalised; rates and land tax will be levied on the basis of the valuation.

(3) The Department is not able to arrange for the valuation until the boundary of the site to be leased and the lease conditions are finalised. This is taking longer than anticipated due to the need to consider environmental issues, current uses of parts of the site and Commonwealth Government involvement in a significant proportion of the site. As soon as these issues are resolved the survey and valuation can be undertaken.

1859

ATTORNEY-GENERAL

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1298

Drink-Driving Offences

MR HUMPHRIES: To ask the Attorney-General - In relation to drink-driving offences in the ACT
(1) On what day did the new system for the issuing of Traffic Infringement
Notices for drivers tested who return a blood alcohol reading of between
0.05 and 0.08 come into effect.

(2) How many Traffic Infringement Notices have been issued to drivers who
have exceeded 0.05 but not exceeded 0.08 since the day on which this new
system came into effect.

(3) What are the penalties that apply for these offences.

(4) Does the Attorney-General view these offences any less seriously than
offences where the driver exceeds 0.08.

MR CONNOLLY: The answer to Mr Humphries question is as follows:

(1) 1 January 1991.

(2) 726 persons.

(3) The current penalty is $510 and 6 demerit points.

(4) No. However, as is the case with all offences, the severity of the penalty
should be consistent with the offence. Additionally, it is at the discretion of
the police officer who has detected the offence whether the offender is
issued with a Traffic Infringement Notice or summonsed to appear before
the Court.

1860

APPENDIX 1:
(Incorporated in Hansard on 19 May 1994 at page 1768)

TREASURER FOR THE AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

QUESTION WITHOUT NOTICE TAKEN ON NOTICE

11 MAY 1994

MS FOLLETT: On 11 May 1994 Mr Westende asked me a question relating to the increase in the ACT Governments liability for Commonwealth Fringe Benefits Tax, and I undertook to provide him with an answer.

MY ANSWER IS: As was discussed in the Assembly last week, the Commonwealth has increased the taxable value of fringe benefits from 48.25% to 93.79%. To retain an equitable relationship with tax on income, FBT became deductible for tax paying entities. The States and Territories however, not being subject to income tax, do not attract the benefit of a tax deduction for FBT liabilities.

The Commonwealth also expanded the FBT net to include some car parking.

The changes were announced in the Commonwealths 1992 Budget and took effect from 1 April this year. The Commonwealth has rejected claims for compensation for the impact of the changed arrangements on the States and Territories.

Fringe benefits and subsequent tax liability for the ACT are paid from budget allocations for each program for operational and administrative costs. Expenditure on this is not centrally controlled, but is disclosed in Departmental annual reports.

Based on total FBT liability for 1992-93, the last known financial year, the changed arrangements would result in an increase for the ACT of approximately $0.9m. However, program managers have had time to review the extent of fringe benefits and to take action to absorb the additional costs within budget estimates, which are adjusted for price indexation and, where appropriate, allowances for growth.

1861