DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

15 June 1994

Wednesday, 15 June 1994

Wednesday, 15 June 1994

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

PETITION

The Clerk: The following petition has been lodged for presentation:

By Mr Cornwell, from 209 residents, requesting that the Assembly take appropriate action to ensure the variation of lease application and the development application for block 2, section 36, Griffith are rejected; request the Committee on Planning, Development and Infrastructure to re-examine the current guidelines and Territory Plan with a view to zoning multistorey townhouse developments only within designated areas of Canberra; introduce a moratorium to stop all multidwelling proposals until the Committee on Planning, Development and Infrastructure has completed its examination; and introduce improved mechanisms for community consultation in respect of any development applications.

The terms of this petition will be recorded in *Hansard* and a copy referred to the appropriate Minister.

Multistorey Townhouse Development, Griffith

The petition read as follows:

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.

The petition of certain residents of the ACT draw to the attention of the Assembly

the proposed development at 13 Lefroy Street, Griffith of three two storey, three bedroom townhouse units. We are concerned because:

. the massing of buildings in a two storey townhouse development is inconsistent with the neighbourhood and existing streetscape;

. residents have purchased and improved property in this area because of its character and if this development application is approved, there will be a fundamental change in the character of this suburb;

. once one multistorey townhouse development is approved, further multi storey developments will occur so that within time, the suburb of Griffith will resemble Kingston;

. the current Guidelines and Territory Plan do not place sufficient restrictions on multi storey townhouse developments; and

. there is no adequate or meaningful process whereby residents are involved in any consultative mechanism when their neighbourhood is being changed forever.

Your petitioners therefore request the Assembly to

. take appropriate action to ensure the variation of lease application and the development application for Block 2, Section 36, Griffith are rejected;

. request the Committee on Planning, Development and Infrastructure to re-examine the current Guidelines and Territory Plan with a view to zoning multi storey townhouse developments only within designated areas of Canberra;

. introduce a moratorium to stop all multi dwelling proposals, until the Committee on Planning, Development and Infrastructure has completed its examination; and

. introduce improved mechanisms for community consultation in respect of any development applications.

Petition received.

DEATH OF MR R. WILSON, AO

MS FOLLETT (Chief Minister and Treasurer): Madam Speaker, I move:

That the Assembly expresses its deep regret at the death of Mr Ralph Wilson, AO, who made a significant contribution to Canberra's cultural development and to education over a 40-year period, and tenders its profound sympathy to his widow and family in their bereavement.

Madam Speaker, members would be aware that Ralph Wilson died recently after a long illness. I believe that it is fitting that we take a few moments today to remember him and to acknowledge his passing and the impact that this talented individual had on our community.

Ralph will be remembered warmly for his contribution to Canberra's cultural development and to education over a 40-year period. However, it is for his work in the theatre that Ralph Wilson will be best remembered, with many directors in Canberra regarding Ralph as their mentor. Ralph Wilson was born in Newcastle in 1917 and in 1949 married Antonia Veen in Sydney. In 1954 they both moved to Canberra, which has been their home ever since. Ralph taught at various schools throughout Canberra, including Telopea Park High and Canberra High, where he was the principal for 13 years. He retired from teaching in 1982, after a distinguished career, and turned his attention and his considerable talents to the stage.

In his theatrical pursuits Ralph Wilson was renowned for his reinterpretation of the classics, his emphasis on the text, dramatic use of lighting effects and a minimal approach to costumes and sets. He was skilled in his interpretation of the works of Samuel Beckett, Bertold Brecht and other great playwrights, and did not fail to meet the challenge of their works. His preoccupation was with the underlying structures of the text and he paid formidable attention to detail. As a director he was unaffected by the size of the audience and the critics' reviews, but he was continuously regarded as a success by both.

Recognition for his theatrical passion came in 1988 when he had the Ralph Wilson Theatre in Gorman House named after him. That same year Ralph reluctantly accepted the Order of Australia for his contribution to theatre. Just recently, Rawil Productions, under the guidance of Ralph Wilson, completed four rehearsed readings of Patrick White plays. Significantly, all the works were directed by young and developing Canberra directors in the process of making reputations for themselves as serious practitioners of their craft.

The generosity with which Ralph lent his expertise and inspiration to new talent, and all those who worked with him, was typical of the humanistic approach to life that Ralph had. At the close of the last reading at Canberra's newest community theatre, the Street, and as a mark of respect and affection, colleagues and friends remembered in silence the immense contribution Ralph made to Canberra theatre. Whilst having an unbounded

commitment to the theatre, Ralph Wilson shared his love across all art forms, including Australian cinema, German romantic poetry and Australian painting, such as those by Boyd and Nolan. He is survived by his widow Toni, son Kyle, daughter Harriette, daughter-in-law Judith Loy and grandchildren Sophie and Sam. He will be remembered fondly by all who knew him.

MR MOORE: In rising to speak to this motion, Madam Speaker, I speak also on behalf of Ms Szuty. I acknowledge the assistance provided for me by Tina van Raay in helping to prepare for this condolence motion. In the world of theatre, not known for its positivity or encouragement to others, Ralph Wilson shone like a beacon. Wherever he went he listened, observed, took notes - he was always, and most disconcertingly, taking notes - and always said something warm, encouraging and positive. Many of his actions and comments were the building blocks of theatre activity in Canberra. His evaluations were always passionate and well informed. As a principal at Canberra High School, many of his ex-students will remember this man for his humanity and his extraordinary gift for igniting enthusiasm and love of literature and theatre; but all of them will remember him for his uncanny memory for names and people. Ralph had the ability to commit enormous amounts of detail to memory. Once you had met Ralph you could bet on Ralph remembering.

He was one of those rare artists in that he had a theatre named after him while he was still alive. He was embarrassed at this action, which so delighted everyone else. The theatre named after him at Gorman House saw many theatre pieces rehearsed and staged by Ralph over the years. These were done with budgets that made shoestrings seem oversubsidised, with lighting that reminded all of us of Fellini, and with passion and dedication known to very few. Ralph Wilson was Canberra's undisputed leading authority on Beckett. I have been told that one of the most momentous, yet understated events in theatre history in Canberra was the night that Ralph Wilson met Samuel Beckett at the Playhouse Theatre. Halfway into the first act of *Waiting for Godot* - I believe that that was the play - both Beckett and Wilson were fast asleep in the front row.

I believe that this condolence motion would embarrass Ralph, who would not be able to ascertain what all the fuss was about. I wondered whether or not we should make a fuss over a man who would have scoffed at this attention. I knew that Ralph would have agreed to this condolence motion as just some notetaking in *Hansard*. Although one cannot grieve for the peace finally gained by one who was so ill for so long, no doubt those directors, performers and playwrights who desperately needed nurturing and a gentle guiding hand will miss him enormously.

MR HUMPHRIES: Madam Speaker, I rise on behalf of my Liberal colleagues to support this motion also. I am greatly relieved to hear Mr Moore's comments about Ralph Wilson and Samuel Beckett sleeping through one of these more famous plays. I think all of us who have been through experiences like that would understand that sometimes even the most inquisitive mind, the most appreciative artistic temperament, fails in certain circumstances.

Madam Speaker, I had only a passing acquaintance with Ralph Wilson during his very long and productive career in the arts in the ACT, and also, as the Chief Minister has pointed out, in education. In this role particularly, I recall, with the Canberra High School, he made an enormous contribution in both those fields. He was one of those legendary figures, or semilegendary figures, in the Canberra arts scene, and one of those people who were constantly talked about and whose work was a reference point for others who attempted to do similar sorts of things. As members have indicated, he had the rare privilege of having a theatre named after him - something which is a special honour which can only be aspired to.

I attended some of his productions and I found them always to be challenging, always to be unexpected. The results were always something to talk about afterwards. He had, as members have indicated, a special obsession with the theatre. He made the mastery of the many facets of the theatre his special task, his special role in the ACT. He had an enormous range of interest within the theatre - not just a particular period or a particular playwright, but everything from Greek tragedies to absurdist plays, to farces. He directed and produced everything from Ibsen to O'Casey, to Beckett to Brecht. He had a total commitment to exploring all that theatre had to offer, and to sharing that experience with the people of Canberra. All who have experienced that work of his have been enriched by that process.

I want to read one paragraph from an obituary written in this month's edition of *Muse* by another celebrated Canberran, Ric Throssell, about Ralph. He wrote as follows:

For those who worked with him, there were special gifts. Beyond the understanding that his slow unravelling of a text allowed, there was inspiration sometimes, and the promise of growth to new command of the magic that allows an actor to stand before an audience of strangers, and often more fearsome friends, amuse them, make them laugh, or move them with another's words; or with any luck, the hardest job of all, persuade some of them to ask questions, doubt old lies and think new truths. Ralph's productions did it all. It was good to be in a Ralph Wilson play - whether as the self-anointed lead destined to play the king, or as a walk-on bit player with a handful of parts of Ralph's varying choosing. There were actors made by Ralph; many who recognised the skills they owed to him.

Madam Speaker, I think we all owe a debt to Mr Wilson. It was sad to see him pass on, and his role will be hard to fill by any who follow in his footsteps.

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

ELECTORS INITIATIVE AND REFERENDUM BILL 1994 [NO. 2]

MR STEVENSON (10.42): Madam Speaker, I present the Electors Initiative and Referendum Bill 1994 [No. 2].

Ms Follett: Is it getting better, Dennis?

MR STEVENSON: Yes.

Title read by Clerk.

MR STEVENSON: I move:

That this Bill be agreed to in principle.

Often when a Bill is introduced into the house - and a Bill to this effect has been introduced more than once - we wonder who has the credit. I want to address that briefly. First of all, I once again give my thanks to the Scrutiny of Bills Committee, who continue doing a marvellous job in picking up any things that can be looked at. Changes have been made that they suggested, and I appreciate that. It is a great help. It has been referred to as my Bill, but I do not feel comfortable with that. Who deserves credit? I think the Swiss over 100 years ago deserve much of the credit. There is no doubt that the ALP in Australia, from the time of their origins in the 1890s, for over 70 years, had this principle as a major objective of their party, and they deserve a great deal of credit for that. The Democrats have been staunch advocates and campaigners for the right of citizens to get involved in the legislative process.

I must particularly mention a solicitor who must have spent thousands of hours working on the Bill and in this area. He is Keith Mortenson, a solicitor in New South Wales. He is a remarkable individual who is ever available to talk on this principle with me, or anybody else. He deserves commendation for what he has done. The New South Wales Parliamentary Counsel had a great deal of influence in the drafting of this Bill and drew heavily on the South Australian Bills that have been presented. As for my credit, I did not think of the idea, I did not write the Bill and I did not develop the idea. I certainly support the principle; but, then again, so do about 80 per cent of people all over Australia. The Bill, or information on the Bill, has gone out to over 300 groups. Feedback has come in from different individuals, groups and organisations, legal people, academics and others from all around Australia. Note has been taken of that and changes have resulted.

Let us look briefly at the safeguards in the Bill. First of all, the Bill requires a minimum of 5,000 signatures to introduce a referendum at the next election. Ten thousand are required if the matter is urgent, or is perceived to be urgent by the citizens of Canberra. A couple of very important safeguards did not come from me. An Electors Bill Committee of 12 oversees the entire process. What a good idea! That committee, the signature collectors and the scrutineers are all approved before they can do that job. It cannot be just anybody. There has to be some appointment; some approval. It is greater the more important their role.

The Electoral Commissioner has a major role in this Bill. One of the major benefits it has is that it allows preferential voting. That would have been a good idea in the 1992 referendum when people voted on the electoral system. They could have been given a choice of a different number of electorates, and they could have been given the opportunity to select a different type of system, like Hare-Clark and so on. That is certainly a benefit.

There is no doubt that the responsibility of members of parliament and the community as a whole is increased by having such a principle in place. It keeps us on our mettle because we understand that the citizens, if they choose, can have a matter put to referendum. It keeps the citizens on their mettle because they have a direct say in the legislative process, if enough of them choose to have that say. They understand that their vote certainly is highly important in that role. As for credit for the Bill, I can sum up by saying that it will do us all credit if we make sure that we are the first legislature in Australia to introduce this principle, which for so long has been supported by so many people.

Debate (on motion by Ms Follett) adjourned.

LAND (PLANNING AND ENVIRONMENT) (CONSEQUENTIAL PROVISIONS) (AMENDMENT) BILL 1994

MS SZUTY (10.49): I present the Land (Planning and Environment) (Consequential Provisions) (Amendment) Bill 1994.

Title read by Clerk.

MS SZUTY: I move:

That this Bill be agreed to in principle.

Madam Speaker, this amendment Bill is intended to ensure that, after 30 June 1995, all applications for lease variations are made and determined under the Land (Planning and Environment) Act 1991. The introduction of this amendment Bill has come about in response to growing community concern that lease variations are still being processed by the Department of the Environment, Land and Planning under old legislation, such as the City Area Leases Act 1936 and the Leases Act 1918, that, unlike the Land Act, do not have requirements for public notification, and resultant third party appeal rights, in respect of lease variations.

I came to the conclusion that this Bill was needed after considering the background to the recent community concern expressed over a proposed residential development at the Kippax centre. To be more specific, Madam Speaker, in early March I received representations from the planning committee of the Belconnen Community Council indicating concern about a proposed residential development on parts of blocks 31, 38 and 27 of section 51, Holt. This land includes part of the Lenon's Health Club block, part of the temporary library block and part of some adjacent unleased land. The community had become aware that change was pending only recently, when surveyors were seen at work in the vicinity of the Kippax library.

The Belconnen Community Council, in taking up the issue, questioned the fact that there appeared to have been no community consultation and formally sought a meeting with the Department of the Environment, Land and Planning to see the details of the proposed residential development for the land in question. An officer of the department indicated to the Belconnen Community Council that public notification and community consultation was not required for the proposed development as the land use for the area in question included residential; so a variation to the Territory Plan was not required, and the application for a lease variation was not made under the Land Act. While not required to do so, the officer agreed to informally discuss with the Belconnen Community Council what was proposed.

Madam Speaker, I was most intrigued to hear that the provisions of the Land Act, which require a high degree of transparency for lease variations, did not apply in this case. After further research I found that the Land Act did not apply as a result of the provisions of the Land (Planning and Environment) (Consequential Provisions) Act 1991. I will explain this as follows. In Part III, "Repeals", section 24 repeals 78 Acts, including the Leases Act and the City Area Leases Act in all their forms, with all of these repealed Acts being listed in Schedule 2 to the Act. In Part IV, "Savings and Transitionals", subsection (1) of section 26 states:

Notwithstanding section 24, a repealed Act shall continue to apply in relation to -

(a) an application made but not determined under that Act before the commencement day; and

(b) the review by a court or other tribunal of a decision in relation to such an application.

The commencement day was 15 January 1992. This section, which could mean that applications are still being determined under repealed legislation in the next century, is the section which this Bill seeks to amend by introducing a sunset clause so that, after 30 June 1995, all applications for lease variations are determined under the Land Act.

To gain a clearer understanding of the facts applying to the application for a lease variation at the Kippax centre, I sought a briefing from the Department of the Environment, Land and Planning in late March. It became clear during this briefing that this application, which included the grant of some additional land, had been in process for some years under the provisions of the City Area Leases Act. This view was later confirmed by the Land Planning and Appeals Board, which advised the Belconnen Community Council, when they sought a review of the Kippax decision, that there was no right of appeal to the board as the application was made under the City Area Leases Act 1936.

What was more interesting to note in the briefing I previously alluded to was the fact that, prior to the Land Act, no specific process for lease variation had existed and that, under the City Area Leases Act, an application was not defined. When I asked the officer how the department knew that an application existed, he replied that the department did not

know the answer to that question. He went on to say that he believed that there were around 10 outstanding applications being processed under repealed legislation under the provisions of subsection (1) of section 26 of the Land (Planning and Environment) (Consequential Provisions) Act, and that these were being dealt with on an individual basis. He agreed that, as the department could not identify applications, more could exist.

It seemed to me then, and still seems to me now, Madam Speaker, that allowing old applications for lease variations to be dealt with under repealed legislation is at odds with the intent of the Land Act and the Territory Plan. As a result, I publicly foreshadowed my intention to introduce into the Assembly a Bill to amend the Act and to include a sunset clause in section 26 so that, after an agreed date - in this amendment Bill it is 30 June 1995 - all applications for lease variation will be determined under the Land Act. I reiterated this intention at a rally on 7 May at the Kippax centre that was convened by the Belconnen Community Council to hear concerns about the proposed development and to canvass a range of community facilities that could be located at the Kippax centre.

Madam Speaker, for the benefit of members, I will compare the relevant provisions of the Land Act and the City Area Leases Act which relate to applications for lease variations. The City Area Leases Act at subsection 11A(1) says:

Notwithstanding anything contained in this Act, the Supreme Court may, subject to this section, on the application of the lessee (in this section referred to as the "application for variation"), vary, amend, omit or add any provision, covenant or condition of a lease.

Section 11A, among other things, expands on how the application is to be lodged with a court, requires the applicant to serve notice on the Minister and publish the notice in the *Gazette* and a newspaper circulating in the Territory, and allows anyone to file with the registrar of the court notice of their intent to oppose the application. The City Area Leases Act is complex legislation which has been amended on an almost annual basis since 1936 and which is out of touch with today's requirements for openness and transparency. It also involves the Supreme Court in the lease variation process and places no time limits on the variation process. It can literally take years.

Under the Land Act a lease variation and a new lease for the purpose of effecting subdivision or consolidation of Territory land are treated as controlled activities. Part VI, "Approvals and Orders", of the Land Act states at subsection (1) of section 226:

An application for approval to conduct a controlled activity shall -

(a) be in a form made available by the Minister ;

... ...

A pink form for this purpose has been available since the Land Act became law and applications are valid only if made on this form. The Act also provides for strict timeframes within which the steps of the lease variation process must be completed. Some examples from the Act are as follows: Subsection (4) of section 230, "Approvals", reads:

If the Minister fails to make a decision ... before the expiration of the prescribed period, the Minister is to be taken to have refused to approve the application.

Subsection (1) of section 237, "Objections - general", reads:

Any person who may be affected by the approval of an application may, within the prescribed period, object to the grant of the approval.

Subsection (1) of section 235, "Duties of concurring authorities" - for lease variations the concurring authority is the ACT Planning Authority - reads:

A concurring authority to which an application is referred by the Minister shall, within the prescribed period, give notice in writing to the Minister that the concurring authority ...

The subsection then goes on to describe approval, conditional approval and objection.

Madam Speaker, I understand from the department that the prescribed period for each step in the lease variation process is publicly available and that, as soon as practicable, the department advises applicants for lease variations of the expected timeframe for the processing of their application. There are also very clear requirements for public notification and third party appeals in the Land Act. In the "User's Guide" to the Territory Plan, under the heading "Specific Users - Lessees", it states in part:

Where a proposal appears to be consistent with the relevant controls the application will be processed in accordance with the requirements of Part VI of the Land Act. Consequently there will be an opportunity for third party appeal under Part VI of the Act unless exemptions from third party appeal apply.

Clearly, Madam Speaker, the mechanisms in the Land Act are vastly superior to those of the City Area Leases Act.

On receipt of a draft of this Bill from the Office of Parliamentary Counsel I thought it advisable once again to seek a briefing from the Department of the Environment, Land and Planning on the relevant issues. I spoke some weeks ago with another three officers from the department, and a number of issues emerged. The fact that there was no definition of an application under the City Area Leases Act was reiterated. The point was made that any letter or communication to the department at any time indicating that a lessee might like to vary a lease would be considered to be an application. The department believed that there are about 30 outstanding applications, with most near completion, but there could in fact be many more. If a sunset clause were introduced it may bring many more applications out of the woodwork, and applicants' rights need to be considered where an application has already been made, and these may be adversely impacted by a sunset clause.

The only real issue about which care needs to be taken, Madam Speaker, is that of applicants' rights. After reconsidering the draft Bill in this context I decided to change the date at which the sunset clause came into effect from 1 January 1995 to 1 July 1995, the date members will see in this Bill. I believe that a year's notice, or a total of three-and-a-half years since the Land (Planning and Environment) (Consequential Provisions) Act was originally passed by the Assembly, should be more than sufficient time for outstanding applications yet to be determined to be progressed to their completion under old legislation before the new requirements apply.

It could be argued that the issue addressed by this Bill could have waited until the Standing Committee on Planning, Development and Infrastructure has completed its deliberations on the Land Act. That committee, of which I am a member, has been busy this year considering numerous draft variations and residential guidelines, and its timetable for considering the Land Act is not yet clear, although at this stage we are considering holding public hearings in August. I believe that this issue needs to be resolved now; hence my introduction of this Bill.

Madam Speaker, I believe that the passage of this Bill is important to the successful management of the leasehold system in the ACT. It will ensure that after 30 June 1995 all applications for lease variations are determined under the Land Act. It will enshrine the requirement for public notification and the right of appeal with regard to lease variations. It will encourage the finalisation of outstanding applications and, most importantly, it will remove the uncertainty surrounding potential outstanding applications for lease variation under the City Area Leases Act and other old Acts. Madam Speaker, I commend the Bill to the Assembly, and I seek leave to present an explanatory memorandum to the Bill.

Leave granted.

Debate (on motion by Mr Wood) adjourned.

DRUGS OF DEPENDENCE (AMENDMENT) BILL 1994

MR MOORE (11.02): I present the Drugs of Dependence (Amendment) Bill 1994.

Title read by Clerk.

MR MOORE: Madam Speaker, I move:

That this Bill be agreed to in principle.

In considering the system of expiation notices in the ACT legislation I introduced in this Assembly, it has now become clear that there are a number of anomalies associated with that Act. The first and most significant of those anomalies is in relation to personal use of marijuana, or cannabis. While individuals now can be given an expiation notice and a $100 fine for possessing or growing cannabis, the law still provides, under subsection 171(2), that a person who actually uses the substance can be given a penalty of either a $5,000 fine or imprisonment for two years. Clearly, that is an entirely inappropriate situation. Subsection 171(2) reads:

A person shall not administer, or cause or permit to be administered, to himself or herself a prohibited substance.

It ranges across the whole gamut of prohibited substances and does include cannabis. The AMA recently took a position at their national conference where they urged law reform on cannabis. Certainly the ACT, like South Australia, is well ahead in this area; but we have not dealt appropriately with use. The AMA, a body that most of us would consider fairly conservative, have taken a public health approach. I was fortunate enough to be there through the debates that raged in the AMA, and I have received a letter from the member of the AMA who chaired the debate to say that they are surprised at the very positive response they have had from the community. Basically, there has been no negative response since they urged cannabis law reform.

The AMA is not unique in this; they have joined an approach taken by the Public Health Association of Australia. So we can see that there is an overwhelming health attitude taken to drug law reform. Indeed, it is not only the health people who have taken this attitude, but also those who look at the law. The New South Wales Law Society and the New South Wales Bar Association have come out very strongly with a similar approach, as have the Young Liberals and Young Labor, and a similar approach was supported in this chamber by the majority of members when we dealt with the original amendment to the Drugs of Dependence Act to deal with this issue.

The first part of the amending Bill I have introduced is to bring the personal use of marijuana into the same expiation notice system so that there is a rational approach. This is an anomaly that I ought to have dealt with in the initial instance, and, in so far as I did not, I apologise to members and now seek to correct that. The second part of the amending Bill that I shall deal with today is a reduction of the fine from $100 to $40, and the third is to delete police discretion in terms of whether or not they charge a person or issue a fine.

To deal with the second amendment, to reduce the fine from $100 to $40, the purpose of the legislation in October 1992, to create a system of expiation notices for the personal use of cannabis, was to minimise the harm associated with this form of drug use. Whatever harm was created by taking cannabis was exacerbated by the fact that many people were charged, taken to court and convicted, leaving them with a criminal record for life. This system not only did not address the problem but also created more harm. Magistrates, realising this, often refused to convict, on the basis that that action had little to do with the misdemeanour. The court's time was taken up with nonsensical proceedings, instead of dealing with real criminal activity that affected other people. So we had the introduction of the expiation notice. Like South Australia, we were keen to see a system that did not prejudice the disadvantaged or the young.

You may recall, Madam Speaker, that the fine was pegged at $100, which contrasted with the system in South Australia, where the fine is $50. Let me hasten to add that the South Australian system has a two-tiered arrangement, depending on the level of use; but it starts at a $50 fine. Unwittingly, I think, we have created another problem by having the fine at this level. Those whom we wanted to keep out of the courts are now fronting up and gaining a record simply because they do not have the means to pay a $100 fine.

Certainly, on one occasion when I raised this issue with the office of the Attorney-General, after somebody had approached me, the matter was resolved and people were given an appropriate time to pay that fine. It is important for us to realise that this is causing a problem for some disadvantaged members of our society. We have to be very careful that we do not penalise people for not being wealthy or not being in the position to expiate what is essentially not a crime in the first place in that it has no impact on other people. Remember that we are not talking about trafficking or selling; we are talking about personal use and personal possession and personal growing. I think that is the critical factor.

I have heard the argument that, if they have enough money to buy dope, then they have enough money to pay the fine, and I think there is some weight to that. But let me remind members that, when we introduced and debated this legislation, we accepted that growing ought to be part of the legislation, even up to five plants. By including growing, we would be looking at a set of circumstances whereby somebody who was involved in the personal use of marijuana did not have to become involved in that network of drug pushing and drug trafficking.

Trying to ensure that young people are kept out of that network is one of the critical factors in the war on drugs. It is absolutely critical that we look at those networks, because they are what makes prohibition such a wonderful system for drug dealers and drug traffickers. They are based on a pyramid selling system, a system that we know is so successful that we outlaw it in Australia. That is why it has worked so successfully worldwide. In 1992, Giorgio Giocomelli, the executive director of the UN International Drug Control Program, in a press conference in Canberra stated that in that year, 1992, the illicit drug trade had surpassed the petroleum industry in profitability. It had become the second most profitable business in the world. That is the level of problem we are dealing with. That is the problem in having a pyramid sales system outside the law. It is that pyramid sales system that we ought to be trying to deal with, and I believe that these expiation notice systems attempt to do that.

The third issue in this Bill is the question of police discretion. Currently, the police have three possibilities if they come across somebody possessing small amounts of cannabis. They can issue a verbal warning, or not take any action; so they have that discretion. They have a second discretion whereby they can issue an expiation notice, and they have a third discretion whereby they can charge somebody. It is that third discretion that I believe we ought not to leave with the police. This Assembly determined that we wished to have a system of expiation notices and, therefore, we ought not to leave police in the situation where they have to make a choice as to whether they are going to charge somebody or issue a fine. They should be able simply to issue a fine, or, as the case may be, ignore the matter, and then it is finished.

Madam Speaker, one issue I have discussed with the Attorney-General is the notion of whether the police should have the discretion where people are growing cannabis - because we allow five plants. Many of us are aware that a plant can be either a foot high or a very substantial bush that is fence height. In those circumstances, we could be talking about a significant amount of cannabis. At this stage, I do not believe that that has been a problem; but, most importantly, we are interested in breaking down those networks. I believe that we should still deal with that matter in terms of an

expiation notice. However, in my discussions with the Attorney-General I indicated that if he wished to come up with an amendment that would exempt growing for those reasons, in terms of police discretion - where a police officer believes that the plants are grown not for personal use but for some form of sale - the police officer could charge somebody and the court would then determine whether that was the case or not. On that issue, I must say that, although I would like to see the network separated, I believe that it is not necessary to do so. I would certainly be open-minded about accepting an amendment along those lines.

Another issue that I think is worth dealing with is the argument that, by using this system, we breach our international treaties. It is worth referring members to a letter from the Minister for Foreign Affairs, Senator Gareth Evans, to the Hon. Alannah MacTiernan, MLC, in Western Australia. The Minister advised that the Federal Government had taken the view that the provisions of article 3(4)(d) of the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances accommodated the arrangements for personal use of marijuana that are made in South Australia - and now the Australian Capital Territory. Article 3(4)(d) of the convention reads in part:

The parties may provide ... as an alternative to conviction or punishment ... measures for the treatment, education, after care, rehabilitation or social reintegration of the offender.

I believe that there are no grounds for that suggestion. It has been considered carefully and it is not the case. The amendments I propose today are simply to remove some anomalies in the expiation notice system this Assembly adopted a couple of years ago, and I commend the Bill to the house.

Debate (on motion by Mr Connolly) adjourned.

STATUTORY APPOINTMENTS BILL 1994
Detail Stage

Clause 1

Debate resumed from 18 May 1994.

MR MOORE (11.16): Madam Speaker, there has been some debate over this Bill and at this stage I think it is appropriate for me to say that the discussion between me, Mr Humphries and Mr Connolly has been quite fruitful. As a result of that discussion, I agreed to have a further amendment drawn to exempt public servants from the operation of this Bill. The original intention of the Bill was clearly to deal with appointments, particularly to boards, statutory authorities and places such as that, so that the legislature was aware of what the Government was doing and had the power to disallow.

The other part of the amendment to clause 6 that I now foreshadow allows a Minister to make an appointment of a person to act in a statutory office for a period not exceeding six months, and I will speak to that at a later date. It seems to me that the compromise reached by the two amendments I shall move should make an appropriate and workable Bill. To clarify for members what those two amendments are, because there was a third amendment distributed at one stage that will not be moved, there is an amendment to clause 4 and also an amendment to clause 6. The amendment to clause 4 simply deals with the Auditor-General and the amendment to clause 6 is the one that has been distributed this morning.

MS FOLLETT (Chief Minister and Treasurer) (11.18): Madam Speaker, could I, first of all, thank members for giving us a little extra time on this Bill. It has been appreciated by the Government and I think it has led to a better piece of legislation as well. So the negotiation and consultation that has gone on has been a very worthwhile procedure.

As I indicated previously, the Government will not be opposing the Bill, although, as members are aware, it is not our preferred course of action. I say in all honesty that we would have preferred matters such as these appointments to be handled by the Executive, as has been the practice in other parliaments. Nevertheless, we fully accept the will of the Assembly in this matter, which quite clearly is to have greater scrutiny of, greater control over, these kinds of appointments. We will not be opposing that course of action.

There is one matter I would like to mention while we are considering the detail stage of the Bill. I caution members about any hint of interrogation of potential candidates or any practice of divulging publicly people's personal circumstances in relation to these kinds of appointments. We have seen a great deal of publicity from the United States of America of this kind of practice. In my view, it is simply not on for this Territory. It is very important, not just to the Government but to the Assembly and to our community as well, that we get people who are prepared to be appointed to the kinds of positions that fall under the jurisdiction of this Bill. It is very important that we also protect people's personal privacy. I believe that people have a right to expect that the Assembly would offer them that respect.

For those reasons, the power that will be vested in this Assembly on the passage of the Bill needs to be handled in a very responsible manner and, to an extent, in an apolitical manner; that is, if the Assembly collectively wishes to take responsibility for some of these matters, in my view it is not open for political point scoring to occur over these appointments. I wanted to make those points to indicate to members that, while we will not be opposing the Bill, I do not regard it as open slather for that kind of activity.

Members will be aware that many of the bodies to which statutory appointments are made play a very important role, and we need to ensure not only that we can get good people to serve on them but also that the bodies themselves are not besmirched by any unseemly kind of debate over proposed appointments. The Government is acting in good faith in accepting the will of the Assembly on this matter, and I would appreciate it if the rest of

the Assembly members would similarly act in good faith and for the greater good of the appointments that are made rather than for the greater good of any particular political body. Madam Speaker, I appreciate the amendments Mr Moore will be moving. I believe that they clarify the matter and specify more closely which appointments the Assembly will be scrutinising. For that reason, we also will be supporting Mr Moore's amendments to the Bill.

MR HUMPHRIES (11.22): Madam Speaker, I also indicate, as I have before, my party's support for the Bill. I foreshadow our support for the amendments which, as Mr Moore indicated, have been worked out by some process of discussion between the parties in this place. I welcome also, in a sense, the change of tone that has come from the Government on the important question of the nature of the scrutiny that will take place pursuant to the powers conferred on Assembly committees by this Bill. It was Mr Connolly's contention originally that this process would inevitably lead to a US-style hearing fiasco, with people calling others names and all sorts of things being dragged up in a public fashion. Mr Connolly said that that was the inevitable result of this process.

The Chief Minister seems to indicate that there is a hope at least by the Government that that would be avoided and that we can conduct this in an apolitical - I think that is her word - and orderly fashion where we treat with respect the information that is put before committees by our potential appointees. I sincerely hope that that is the case as well. I repeat my assertion that my party does not see this as the opening to an American-style hearings process. This is a process that we see having positive outcomes for the Territory, not just because of the extra scrutiny it provides to members of the Assembly but also because of the constraint it puts on the hands of government.

We do not expect partisan behaviour on these committees because we expect the process of making appointments to be less political than it has been in the past. My party believes that there have been inappropriate appointments in the past, particularly by the present Government. We stand by those assertions. I mentioned on the last occasion at least three appointments we considered to have been inappropriate, where persons were appointed primarily because of their political connections rather than because of their particular talents or credentials. We hope that this process will begin to avoid that kind of appointment being made in the future. We do not expect to have to go through a tawdry kind of attack on nominees because we do not expect nominations of the kind we have seen in the past being made in the future.

Mr Connolly: But, other than that, it will be open slather on anybody you think you can get a bit of a smear on. Mr Katter seems to be coming to the surface here.

MR HUMPHRIES: Mr Connolly persists in pointing the finger on this matter. I am not responsible for Mr Katter or Senator Chapman. I think we have indicated pretty clearly that we take a responsible approach to these sorts of matters in this place. We have indicated that we are prepared to take this matter as an innovation in Australian government and deal with it responsibly and act according to those new responsibilities.

That means treating these sorts of arrangements with great care and ensuring that when we ask questions about an appointment we do so in a responsible fashion. That will be the hallmark of our approach to this matter, and I hope that on the next occasion on which the Labor Party finds itself in opposition it takes a similarly restrained approach. I indicate that I also support the amendments that are being put forward.

Ms Follett: We play the ball.

MR HUMPHRIES: Indeed, and so do we. Every appointment we have criticised has been criticised outside this place as well by other people - not just by partisan commentators but by those in the media and elsewhere who believed that there was inappropriateness in those appointments. I refer, for example, to Mr Aliprandi's proposed appointment to the Pharmacy Board, which was criticised not just by the Liberal Party but by many others in the broader community, particularly in the pharmacy community. If you people imagine that these sorts of things are stirred along by politicians and are not the result of some concern by the community, then you seriously underestimate the extent to which the community does understand what is going on in these processes and is upset by them. You know that that was an inappropriate appointment, and that is why, presumably, you backed off. I think that in the future we will see a different ethos in the ACT, and we welcome this Bill as a way of achieving that better ethos.

MR MOORE (11.27): Madam Speaker, I think it is very important to reiterate the workings of the process so that members can understand that the Bill is designed to avoid the very thing we have just heard. The system is that a Minister, in deciding that he wishes to make an appointment, can refer the person or a range of persons to that committee. In other words, the consultation process is there with the committee. There is no compulsion on the Minister, once that consultation process has occurred, to accept the view of the committee; rather, the appointment is made and then members have the opportunity to move disallowance if they so wish.

Where a committee has approved an appointment as part of a consultation process and then a member of that group moves disallowance, I would say that the mud is on the face of the group that agreed to the appointment in the first place. That is the whole point of running through a process like that rather than saying that we ought to allow the committee to decide. The Minister still makes the appointment after a consultation process, but under clause 5 of this Bill it is a disallowable instrument. I appreciate the change of tone here. I hope that it will not be used for political point scoring. That is not the intention of the Bill. Rather, the existence of the Bill should avoid the circumstances we have heard about in the chamber in the last little while.

The other issue is that members in this chamber, by and large, have dealt very carefully with that power of privilege. No doubt the issue - such as the one that has been drawn to our attention in the Federal Parliament just recently - as to whether it has been used or misused is one for debate. I believe that members in this chamber will not go for the open slather approach but, in the same way as they deal with the power of privilege, will use this power very carefully to ensure the best possible appointments for the good of the people of the Territory. That is what this Bill is about.

Clause agreed to.

Clauses 2 and 3, by leave, taken together, and agreed to.

Clause 4

MR MOORE (11.30): I move:

Page 2, line 12, add the following subclause:

"(2) Subsection (1) applies in relation to the appointment of a person under Division 1 of Part II of the *Audit Act 1989* to be the Auditor-General for the Territory or to act as Auditor-General for the Territory as if the power to make that appointment were vested in a Minister, and in that application the reference in that subsection to the Minister shall be read as a reference to the Executive.".

The amendment to clause 4 seeks to include the Auditor-General. The Auditor-General is appointed by the Executive, and the Bill deals with appointments by Ministers. Clearly, most members recognise that the Auditor-General is a person who responds to and reports to this Assembly, and therefore it is appropriate that the same process be used for the Auditor-General. Indeed, the Auditor-General wrote to me and pointed out that he was not included in the Bill, and I had this amendment drawn up to ensure that he would be.

The amendment creates a fiction, effectively, to say that for the purposes of this Act you consider the Auditor-General as though he had been appointed by a Minister. The Auditor-General is therefore included in this style of scrutiny. The perception by the Auditor-General that he ought to be included in this process indicates that the process is an entirely appropriate one that will allow for scrutiny of such positions and, particularly in terms of the Auditor-General, indicates the extra faith the Assembly will have in the scrutiny conducted of the Auditor-General. I commend this amendment to the Bill.

MR HUMPHRIES (11.32): Madam Speaker, I am indebted to the Chief Minister for making available a list of all the statutory appointments that are provided for under various pieces of ACT legislation, so that we have some idea of how the legislation Mr Moore has put forward will operate. Although I welcome the amendment that has been put forward, I am still not clear on whether certain appointments should or should not fall within the framework of the Bill. Those are matters that are going to have to be resolved over a period. It is better to take, in a sense, a minimalist approach at this point and then work out over a period whether appointments should also be brought under this process.

As I read the list the Chief Minister has circulated and the amendment Mr Moore has circulated, I assume, for example, that the Director of Public Prosecutions will be appointed subject to this - - -

Mr Moore: On a point of order: I think you are referring to the amendment to clause 6. At the moment I am dealing with the amendment to clause 4.

MR HUMPHRIES: Thank you; I will come back to that in a moment. I thank Mr Moore for his point of order. I still make the comment that we need to keep under review the question of which appointments are subject to this legislation and which are not. At the end of the day, some appointments might appear to be inappropriately covered by this process. If that is the case, we should agree, by consensus hopefully, to exclude them from the process.

MS FOLLETT (Chief Minister and Treasurer) (11.33): Madam Speaker, to respond to Mr Humphries's comments, I advise members that, following the passage of the legislation today, I will be pleased to revise the schedule of appointments to which the Bill applies and circulate that again to members. It may be the wish of the Assembly to make that a formal part of the Act in due course. However, I will certainly revise the schedule and circulate it so that members are able to see whether there are positions that are on it that they believe ought not to be or positions that they would still like to see included, perhaps by way of later amendment.

Amendment agreed to.

Clause, as amended, agreed to.

Remainder of Bill, by leave, taken as a whole

MR MOORE (11.34): I move:

Clause 6, page 2, lines 17 to 20, omit the clause, substitute the following clause:

Exemptions

"6. Sections 4 and 5 do not apply in relation to -

(a) an appointment of a public servant to a statutory office (whether or not the Act by or under which the appointment is made requires that the appointee be a public servant);

(b) an appointment of a person to act in a statutory office for a period not exceeding 6 months, not being an appointment of the person to act in the office for a second or subsequent consecutive period; or

(c) an appointment of a person to a statutory office the only function of which is to advise the appointing Minister.".

This amendment was reached by consensus after the Chief Minister distributed the names of public servants and others appointed to statutory offices to whom the Bill would apply. It was quite clear, as the Attorney-General had pointed out, that people such as the dog controller, who was a public servant, ought not to be caught up in the Bill. That was never the intention of the Bill, and we should exempt them. When I discussed with Parliamentary Counsel whether we should proceed with a schedule to the Bill of the type the Chief Minister talks about or take a more generic approach, Parliamentary Counsel advised me of some of the difficulties that would arise out of having a schedule to the Bill, in that every Act that was enacted after that that had a statutory appointment would require a further amendment to that schedule. It appeared to be a far more effective way to have a generic statement.

One of the things that are important about this legislation is that it is landmark legislation. It is the first time in Australia that a parliament has sought this type of accountability. That being the case, the minimalist approach Mr Humphries talks about is entirely appropriate, and the fact that we can see a consensus view coming from the parliament, recognising this as an acceptable approach, even if it is not the favoured position, is a rather strong recommendation of the work done in this Assembly on issues such as these.

The amendment deals, firstly, with the appointment of public servants and exempts those and, secondly, with appointments of persons in an acting position when that acting position does not exceed six months or where the person is not appointed for a second term. So they can act the first time but they cannot go into a subsequent consecutive period. I think that also accounts for any way in which this could be misused by a future government. Madam Speaker, for those reasons I commend this amendment to my Bill.

Amendment agreed to.

Remainder of Bill, as amended, agreed to.

Bill, as amended, agreed to.

HOUSING ASSISTANCE (AMENDMENT) BILL 1992

Debate resumed from 2 March 1994, on motion by Mr Cornwell:

That this Bill be agreed to in principle.

MR MOORE (11.37): I am shuffling a few papers here to find what I have done about this piece of legislation. Madam Speaker, I think it is important that we recognise that this Bill has been circulated with an amendment foreshadowed to subsection 17A(1). Mr Cornwell has foreshadowed that paragraph (d) be added. Subsection 17A(1) would then read:

The tenant of a dwelling is entitled to purchase the dwelling if -

then there is a series of other things -

(d) the ACT Housing Trust agrees.

It is a very important amendment, Madam Speaker. The critical changes are that a tenant has resided in the dwelling for a period of not less than five years - the proposal was to change that, if my memory serves me correctly, from eight years to five years - and that the Housing Trust agrees. The critical factor in terms of the Housing Trust agreeing does change the whole tenor of this debate. One of the circumstances about this issue is that the Housing Trust must be able to ensure that public housing is evenly distributed throughout the city. I think that is a critical factor.

Let me explain to you, Madam Speaker, why I believe that to be the case. Towards the end of last year I was privileged to meet with Lee Brown, the person in the Clinton Administration who looks after drugs policy. In the discussions with him I was pointing out that drugs policy is difficult to deal with in isolation and that the social background and sociological setting of such policies is absolutely critical. I drew attention to the fact that we have public housing throughout almost all suburbs in Canberra. He was absolutely flabbergasted and responded by saying, "If I had that I would have hardly any of the problems that I have now". The problem that he has to deal with is not just drugs policy in the States. Mr Brown is a black man and he understands the problems of minorities in the United States who are marginalised in ghettos in the cities. That, of course, is where they have their worst drug problems. Madam Speaker, you resolve many social problems by ensuring that people are integrated, not segregated. The amendment that Mr Cornwell has foreshadowed deals with the Housing Trust retaining that policy to ensure that people are integrated throughout our suburbs when they are in public housing.

Madam Speaker, I have used the term "public housing" very deliberately because we have a tendency, sometimes, to fail to understand the difference between welfare housing and public housing. In this case we have a situation where the Government, the Housing Trust, is the landlord. Some people, although they are in public housing at a time when they are not so well off, then manage to do well and pay commercial rents for their properties. That commercial rent, that increase in value, goes to the landlord and helps the Housing Trust to pay for people who are in public housing from a welfare perspective. That is something that I value very highly. It also means that people who are in public housing are not regarded always as welfare recipients. People simply do not know whether somebody is in public housing for welfare reasons. Around me I know a number of houses that are public housing residences, but I have no idea whether the tenants are there in terms of their welfare or in terms of it being a public housing area.

It is also important, I think, that tenants in public housing who make a house their home do have a prerogative to buy it if that fits into the general plan of the Housing Trust and does retain the integration. It is for those reasons, Madam Speaker, that this Bill has some attraction for me. It sets the tone that residents do have that prerogative to apply to become the owner of the home. When such homes are purchased at market value the

Housing Trust has the ability to buy further properties, perhaps properties that cost them less, and they can use their money more wisely. There is a further situation, Madam Speaker, that applies here. There is a great need for Housing Trust homes but not so much for stand-alone homes. We have more and more single-parent families and single people in need of public housing. We can ensure that as development occurs the Housing Trust can have some control over that issue. The amendment that Mr Cornwell has foreshadowed will allow that process.

Madam Speaker, the issue of the period of five years is one that I have not had the opportunity to discuss at this stage with the Minister, but it does seem to me to be a reasonable period. In that time people are able to decide whether to make that house their home and to put work into it, as indeed the vast majority of public housing tenants do, to ensure that their gardens are beautiful. They look forward to the time when they have the opportunity to purchase it, provided they meet the other criteria that the Bill will set. For those reasons, Madam Speaker, the Bill as presented, with the foreshadowed amendment, seems to me to be a reasonable approach. It is a quite sensible Bill.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (11.45), by leave: I thank Mr Moore for his comments, but I will I take this opportunity to point out a number of things to him. Look at page 2, under the heading "Tenant's right of purchase", proposed new section 17A. The foreshadowed amendment of Mr Cornwell's would add the words "(d) the ACT Housing Trust agrees". It would then read:

The tenant of a dwelling is entitled to purchase the dwelling if -

... ...

(d) the ACT Housing Trust agrees.

Why do we not just scrub everything else and have that? When you look at the principles that Mr Cornwell's Bill attempts to put into law, the first one is that "the tenant has resided in the dwelling for a period of not less than 5 years after the commencement of the tenancy". What about the Housing Trust tenant who has been a tenant for 25 years and is relocated for some reason, such as the age of the house, to new premises and then wishes to purchase? They have been a Housing Trust tenant for 25 years, but because of this Bill they will be restricted in being able to apply to purchase a house. That is the first problem with this Bill.

Mr Kaine: They cannot buy it at all now.

MR LAMONT: That is incorrect, Mr Kaine, and you know that it is incorrect. Throughout that period the tenant has paid the full non-rebated rent in respect of the dwelling.

Mr Kaine: I do not think you understand the legislation that you are administering, Minister.

MR LAMONT: That is what is being proposed. Mr Kaine, in your position I would get up and leave too.

Mr Kaine: I am just sick of listening to this drivel.

MR LAMONT: Throughout the period the tenant has paid the full non-rebated rent. Mr Moore, once again, 85 per cent, or thereabouts, of Housing Trust tenants pay rebated rent, so this Bill will automatically prohibit 85 per cent of Housing Trust tenants from entering into any form of purchase for a house. I think that on those two points alone this Bill is so obviously flawed that we should not consider it further. It has been on the notice paper and I think this is the third occasion on which it has been debated in this chamber. I believe that we should make it quite clear to Mr Cornwell that we are not prepared to accept these types of changes within the Housing Trust area.

I have no difficulty at all with the suggestion that the sale price be equal to the current market value of the dwelling as determined by independent valuation. Those valuations are normally received by the Housing Trust through a similar process whereby a person who has been a tenant for longer than eight years is able at the moment to seek to purchase the house. This is a system, I would suggest to you, Mr Moore, that has worked extremely well. I, as Minister, have not been made aware of one occasion where the current provisions are seen as draconian or unreasonable in relation to the purchase of Housing Trust stock.

We have already heard considerable debate in relation to what the additional impost on the Housing Trust would be, were it to build a house, sell it five years later, purchase a new one and go through this process again and again. You also have to understand, Mr Moore, that it is for social justice reasons that the Government has housing stock in particular strategic locations. This Bill would create an administrative nightmare for the Housing Trust. Consider the case of a person who has been a tenant in a particular property for five years and has paid the full non-rebated rent. If the Housing Trust turned around and said no, I think you could imagine the type of litigation the trust would find itself in. That, basically, is the position that this Bill would lead us to. I think that on those three fundamental matters this Bill is so flawed that no amendment would work.

MADAM SPEAKER: Mr Lamont, I have had a message from *Hansard*. It is very difficult for your words to be picked up.

MR LAMONT: I thought that with my voice most things would - - -

Mr Connolly: He always speaks in such soft, dulcet tones.

MADAM SPEAKER: The rest of us had no problem, Mr Lamont.

MR LAMONT: I believe, Madam Speaker, that for those three reasons this Bill is so flawed that it would be dangerous to have it passed by this Assembly. I think it would substantially undermine the ability of the Housing Trust to perform its task, and it would substantially disadvantage the vast majority of Housing Trust tenants; but that does not seem to be something that Mr Cornwell is all that worried about.

MR STEVENSON (11.50), by leave: If the points that Mr Lamont raises are valid they should be looked at; but they are only points of detail, not principle, that require amendment. The principle is that people should be encouraged to purchase properties if they can. We went through the relevant aspects of this during earlier debates when we said that if someone purchases a house the Housing Trust can buy another property so that it does not diminish the number of homes that are available. What does it do? It encourages people to accept greater responsibility for their home and their life. That is a benefit. That is a good principle. Mr Lamont is making rabbit ears with his hands or whatever. I think he is talking about money. That is a good point to consider. It is hard for a lot of people to get the money to buy a home. That initial step towards having their own home is difficult. Is this not what we are talking about here? Are we not talking about giving these people the opportunity to buy a home without having money problems for all their lives?

Mr Lamont: Under his Bill only 25 per cent of Housing Trust tenants would ever be able to purchase their houses.

MR STEVENSON: You said 15 earlier.

Mr Lamont: No, 25. I thought it was about 75 to 80.

MR STEVENSON: It is changing rapidly. The point is that these are details, and amendments are required. Why cannot a couple of amendments be introduced to correct the matter, particularly if we do not have to debate it finally tomorrow? Would that not be a benefit? The point I make is: Let us hold to the principle. The principle is just; the principle is beneficial for all concerned. There should be greater encouragement. We did look at the numbers of Housing Trust homes that have been purchased, and you cannot say that there has been encouragement. There must be discouragement somewhere. There are not enough. There are hardly any. What we need is encouragement. Let us provide the encouragement. If there were lots of people purchasing their homes we would not go down this track. It would be a waste of time. It is because they are not that they need encouragement. Let us hold to the principle. If the detail needs to be changed, do so; but do not destroy the principle or the opportunity to provide encouragement.

MR CORNWELL (11.54), by leave: Madam Speaker, I think the Assembly should appreciate that the objection of the Government to this is simply because it was put forward by somebody other than themselves. What is being said here is nonsensical. The fact is that it was never our intention that the Housing Trust should see its stock being decimated in specific areas. You have already conceded, Mr Lamont, that people are entitled to buy their Housing Trust properties. The arbitrary 10-year period - it was arbitrary - was imposed without rhyme or reason, except to the extent that Housing Trust properties had not been for sale for a number of years. The Minister and the trust, at the time when it was decided to reintroduce sales, were a little concerned that the demand might prove too great for the trust's stock, thus reducing the amount of stock available, Mr Lamont, so a term of 10 years was applied in a quite arbitrary fashion to judge the demand. It stayed at 10 years for some time. Last year your Government reduced it from 10 years to eight years.

The question that I pose to the Assembly is this: Why is eight years any different from five years under such circumstances? I have not had a sensible response. I have not had a reasonable response to this question. All that we see is that the Government is determined to hold onto housing stock, which it manages badly, Madam Speaker.

Mrs Grassby: That is your opinion.

MR CORNWELL: Yes, and it is the opinion of most Housing Trust tenants, Mrs Grassby. Why, otherwise, did we have this flim-flam yesterday in the budget about how they are going to make all sorts of improvements in terms of improved services? I read from Mr Lamont's statement here that they are initiating a review and, guess what? They are going to establish client service teams which will be able to respond to queries, applications and requests for services such as public housing allocations, rent rebates and private rental assistance. On it goes. The point is that you have conceded that the management of Housing Trust properties is not good, Mr Lamont. You say that action will be taken to repair their homes when they notify district office. All of this is going on. The fact is that this is an empire which this Government wishes to hang onto at all costs.

Mr Lamont: You wish to discriminate against 80 per cent or 85 per cent of Housing Trust tenants.

MR CORNWELL: I do wish that you would get your facts sorted out. You said 75 per cent earlier. Let me correct you, Mr Lamont. At the moment some 85 per cent of trust tenants are in what we would call welfare housing. In fact, we are looking at 15 per cent - - -

Mr Lamont: "Welfare housing". Here we go! That is what you would call it.

MR CORNWELL: We are looking at 15 per cent of people who are in what we would call public housing and therefore are eligible to purchase these properties. I do not see the difference between eight years and five years as a bone of contention. It is simply that you wish to deny people this option. We will be quite happy to fight you on it at the next election.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 8 NOES, 9

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

Question so resolved in the negative.

PERSONAL IDENTIFICATION CARDS

Debate resumed from 18 May 1994, on motion by Mr Moore:

That this Assembly instructs the Minister for Urban Services to facilitate the distribution of personal identification cards by Motor Registry in the same format as a driver's licence for those people who choose to have identification showing their address and date of birth.

MS SZUTY (12.01): Madam Speaker, I support the introduction of the proof of age card or pubcard. A major reason for my support is that it gives young people a further option to establish their age at licensed premises. My position of support for the card has drawn on the excellent work of the Select Committee on Drugs in its final report, *Alcohol and Youth - A Rite of Passage?*. Many issues have been raised in this report, including the extent of binge drinking among young people, the extensive use of alcohol among high school students, the ease with which people under 18 years of age can purchase alcohol, the ease with which those under 18 years can enter licensed premises, and concern about unsafe sex practices among young people affected by alcohol.

I am aware, Madam Speaker, that we have debated the select committee's report, *Alcohol and Youth - A Rite of Passage?*; but it is useful to remind members about the many issues that that committee raised in its report. These issues are all of major concern and, as I have said, they already have been addressed by the Assembly. The committee, however, made a significant positive recommendation to address the ease with which people under 18 years of age enter licensed premises. This is the introduction of the proof of age card. It is a substantial positive step in making it easier for all to observe the provisions of the Liquor Act.

The Liquor Act makes it an offence for a person under 18 years of age, referred to in the Act as a "young person", to enter a bar room or licensed premises except in the care of a responsible adult. It is a further offence for a young person to consume liquor on premises where the sale of liquor is authorised. Both offences carry a penalty of $500. It is also an offence under the Liquor Act to sell or supply liquor to a person under 18 years on premises where the sale or supply of liquor is authorised. This offence is subject to a fine of $2,000 and can lead to the loss of licence. In recognition of the difficulties facing the licensee, the Act recognises a number of defences, including that the young person was not less than 16 years of age, that the licensee took reasonable precautions to determine the young person's age, and that the licensee had reasonable grounds for believing that the young person was at least 18 years old.

Mr Deputy Speaker, the Liquor Act defines the community's expectations about the sale of liquor in the Territory. The Act effectively gives to adults, in most cases, the right to consume alcohol on licensed premises. It also imposes on licensees an obligation to ensure that patrons are at least 18 years old. A pubcard is a sensible way for younger adults to demonstrate their rights, as well as an easy way for licensees to discharge their obligations. All members recognise, I am sure, the different rates at which young people mature. Some mature early and may well appear to be adults while still at school. Others mature more slowly and may well seem to be of younger years when well into their twenties. The rights of those appearing younger than their years will be protected if they have a pubcard, while the obligation of the licensee will remain in the case of those appearing to be more mature.

There is a legitimate concern about the need to introduce yet another form of personal identification. It is worth reminding the Assembly that we all seem to acquire more forms of identification as we grow older. It is not unusual, for example, to find high school and college students with no means of identification. Many younger adults do not drive a vehicle and so have no drivers licence. Passports are not commonly found among young people and are cumbersome to carry around on a day-to-day basis. Most people keep their birth certificate at home, and the lack of pictorial identification can make them of marginal use anyway. It is clear that a further, simple form of identification, such as the pubcard, will make life easier for patron and licensee.

Mr Deputy Speaker, during the select committee's investigation it visited seven of the ACT's secondary colleges. The issue of the proof of age card was raised at every college that was visited. The vast majority of students welcomed the idea and thought a reasonable charge for the card could be up to $10. The students most opposed to the pubcard, not surprisingly, were those in Year 11, that is, the under 18-year-olds. Many students also expressed frustration at having the legitimate forms of identification that they did have challenged or even disbelieved. They saw a proof of age card as a much more convenient and cheaper way of proving their age than a passport or birth certificate.

College students are not the only supporters of the pubcard. I note from the select committee's report, Mr Deputy Speaker, that the Attorney-General's Department generally supports the idea, as do the Australian Hotels Association, the Licensed Clubs Association and the Liquor Licensing Board. With such overwhelming support from all stakeholders, it seems clear that it is time to introduce a pubcard in the ACT, particularly in light of the fact that the ACT is now the only jurisdiction in Australia which does not have a pubcard.

The select committee also considered what a pubcard might look like and how it could be produced. It recommended that the proof of age card be similar in presentation to a drivers licence and contain the person's photograph, name, and date of birth, with appropriate certification of these. The committee also recommended that these cards be available by application - that is, on a voluntary basis - from the same places that issue drivers licence renewals, and that a fee of $5 be charged to cover the cost of production.

Mr Deputy Speaker, I believe that the pubcard is an idea whose time has come. I also believe that the Chief Minister's Youth Advisory Council has come some distance in coming around to the view that a proof of age card, or a pubcard, is a useful addition to young people in terms of providing them with identity when they are seeking to frequent licensed establishments. Mr Deputy Speaker, it will give dignity to the younger patrons of licensed establishments by ensuring that they are not arbitrarily excluded on the basis of appearance, while providing protection to the licensee by allowing simple verification of a patron's age. I expect, Mr Deputy Speaker, that Mr Moore's motion will be supported, and I would urge the Government to proceed rapidly with the introduction of the proof of age card.

MR DEPUTY SPEAKER: Who is speaking? There are about five people on their feet. Order!

Mr Stevenson: I will be happy to.

Mr Lamont: I was about to give the Government's response. It may allow you to gain a more informed view, Dennis.

MR DEPUTY SPEAKER: Minister, I will recognise you now, and then you might like to say that to Mr Stevenson.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (12.09): Mr Deputy Speaker, I thank you for your forbearance. Mr Stevenson, this is another good news response from the Government. The Government, in its response to the report of the ACT Community Safety Committee on its *Civic by Night* reference, has agreed that there will be available to ACT residents a personal identification card which will act as a proof of age card. The Government has agreed that this card will be available to all ACT residents. The legislation to provide the basis for the issue of this identity card is currently being arranged by the Attorney-General, and I do not propose to speak any further on that aspect.

I have agreed that the transport regulation area of my department will be responsible for the issue of the card, and arrangements are currently being made to have the card available at the earliest possible date. Procedures are being developed by officers of my department in consultation with the Attorney-General's Department. Without pre-empting those consultations, I can advise the Assembly that the card will be available before the end of this year.

To ensure that the card will be fully effective, we will require the same proof of identity and proof of residence as is required from a person applying for the issue of an ACT drivers licence. These include primary proof of identity, such as a current passport or photographic licence from another Australian jurisdiction; and secondary proof, such as a current photographic identity card from an Australian government organisation, and a recent bank statement or other document sent to the residential address of the applicant. The card will be available at low cost, in a format similar to a drivers licence. Mr Deputy Speaker, the Attorney-General, in the Government response to the ACT Community Safety Committee status report on its *Civic By Night* reference, has announced the Government's support for such an identity card for ACT residents. I can assure the Assembly that arrangements are being made for the card to be delivered at the earliest possible opportunity.

I will use this occasion, Mr Deputy Speaker, to outline what constitutes primary and secondary proof of identity. I gave some examples a moment ago. This is the normal range of proof that would be acceptable. A full birth certificate or extract; a naturalisation or citizenship certificate; a current passport; a current Australian photographic licence; an Australian photographic drivers licence, for ACT vehicle registration only; and immigration papers - for example, a refugee's visa not more than seven years old. Secondary proof consists of a current passbook or card from a bank, building society or credit union; a current photographic identity card, such as a government pass, or an employee pass, or a Department of Defence pass, et cetera; a current Medicare or electoral enrolment card; a current Social Security or other pension card; a tax assessment notice, a telephone account, an electricity bill, or a rates notice paid within the last three months; and certificates issued by a recognised educational authority or a transcript of an educational record.

Mr Deputy Speaker, I believe that this process will allow for the intent outlined in the *Civic By Night* report and also the procedures that have been supported by Mr Moore, in particular, in trying to address this issue of proof of age. I would, however, like to place on record the simple fact that we do not regard it as an under-age card or a pubcard; it is a proof of identity card. A proof of identity card should be available to all sections of the community and should not end up transferring from the licensee the responsibility to ensure that under-age drinkers are not drinking in an establishment. The youth forum in the ACT was concerned about this. It must be borne in mind that it is the primary responsibility of a licensee to ensure that persons under age are not consuming alcohol on their premises. I give an undertaking that my officers, who review a number of these matters, will be keeping a close eye on this situation in the ACT.

MR STEVENSON (12.14), by leave: I still have grave concerns about ID cards, although one can give good reasons for these things. It is not that anyone in this Assembly would ever use such a thing in an untoward manner, but think of the future. What concerns me is that things become acceptable. Income tax was first introduced at one per cent as a temporary measure. You never know. Sometimes people forget these things. Later on you could have the remarkable situation where much of what you earn is taken by some other people who say that they need to do so in order to benefit the community as a whole. This, of course, is creating the troubles we have in our community. That is something that may need to be fought in the future. Some people may say, "We have had it for a long time and people have accepted it. We need to make sure that people do have proof of identification. If they do not, we must ask why. What do they have to hide?". This is the concern of a lot of people in Australia - I think, most people in Australia. As I said, that may be something that we will need to fight in the future.

It is good that the Minister said that this card will be introduced. It is good to see that matters on the notice paper are being acknowledged by people in the Executive. If they regularly go through the notice paper, look at these things and start taking them on board, start considering whether or not something is going to benefit Canberrans, it will save a great deal of time in this Assembly. That is a benefit.

MR HUMPHRIES (12.16): I obviously support this motion. Let us not use Orwellian euphemisms. We are talking about a pubcard designed to facilitate the identification and age of drinkers.

Mr Stevenson: It does not say that in the motion, by the way.

MR HUMPHRIES: No, it does not; but that is what it is.

Mr Stevenson: It talks about an identification.

MR HUMPHRIES: That is quite true; but that is what it is. It is not so much about identification as about letting people know that they are old enough to be able to legally drink in this Territory, and do other things, which I will come to in a moment. Obviously, it is supported by this side of the chamber. We have called for this initiative for at least three years, or somewhat longer, I suspect. We also argue that it is high time the measure was introduced. It is a need which has been clearly identified, not just by the committee to which Ms Szuty referred but also by the police who, on a day-to-day basis, have had to deal with the rampant problem of under-age drinking in this Territory. A great many people below the age of 18 years in this community have access to alcohol. That access is extremely free. There have been few effective barriers to them obtaining that access in the past, and it is important that we do something at the level of legislation, or take other measures, to ensure that that access is restricted. I am not sure what the argument about prohibition would say in this respect; but it seems to me that in the case of young people it is important that they not be able to purchase liquor freely in shops, bars and taverns around this Territory. That, clearly, does not encourage a responsible attitude towards drinking.

Mr Deputy Speaker, the ACT is the last jurisdiction in Australia to take on this initiative, and I doubt that we have been the wisest. In fact, I believe that we have been the most foolish in having delayed this important question for so very long. Mr Lamont, the Minister, has said, "The Government is proceeding to do this kind of thing anyway; so why the need for this motion?". The question is whether we believe that the Government will proceed to make this decision off its own bat, or whether it needs to be encouraged by the Assembly.

I remind members that it was at about this time three years ago that the Attorney-General confidently promised the people of the ACT that a pubcard, by whatever name, would be introduced imminently to ensure that there would be a means of preventing people under the age of 18 from obtaining access to alcohol. There was no qualification, at that time, on that promise. It was a simple promise made on the radio, as I recall, in the course of a debate with me about legal issues and justice issues. Mr Connolly made that unequivocal commitment. That commitment has not been honoured in the last three years. It is high time that it was honoured and we, therefore, support the passage of this motion to make it clear that we believe that it should be honoured soon, not just because an election is in the offing once again.

The Government said today that it wanted to see what the youth said about this matter before it proceeds. It wanted the support of the youth sector. Ms Szuty indicated, fairly clearly, that the work that her committee did in this area shows that the youth sector has always supported this kind of measure. It has always supported responsible ways of providing for access to alcohol because those who are over the age of 18 do not believe that their rights should be curtailed or that their access should be damaged by having under-age access as well. They realise that there is a responsible issue here that they need to support. Those under the age of 18, for the most part, also accept that it is appropriate that the law be enforced, just as proof of your identity is an important element in obtaining all sorts of rights in our community, from getting a drivers licence, to opening a bank account, to getting a passport. All those things carry some requirement to prove who you are and what your age is. This requirement is no different.

What the Minister did not say to us today was how much arm-twisting has been going on to get the youth network, the Chief Minister's Youth Advisory Council, to agree to this measure. We know that the Government felt that it was at a disadvantage by not being able to honour Mr Connolly's promise. We know that considerable pressure was placed on the Youth Advisory Council to get them to change their mind about this matter. We know that there was always a substantial minority of that council prepared to support a pubcard, but there was a majority - a slim majority, as I understand it - of members who were opposed to the idea. That indicates, in my view, the clear danger with a government being beholden to particular interest groups in the community and, by being so, failing to acknowledge - - -

Mr Connolly: You do not consult; you are beholden to interest groups. We cannot win on this.

MR HUMPHRIES: I am all in favour of consulting; but, when I can see that the people who are speaking on a matter are speaking out of self-interest, are defending some particular interest rather than the broader community interest, I would take action that was appropriate in those circumstances. This Government knows full well that it is right to introduce a pubcard and it is right to proceed down this track now. The fact that they have had to wait for that consent to come from that particular sector of the community should have been irrelevant in that process. Either the idea is a good one or it is not. You have accepted that it is a good idea. The question remains: Why was it not done three years ago rather than now?

Mr Deputy Speaker, it is not just in respect of access to alcohol that we need to have this kind of initiative. In recent months Mrs Carnell has drawn attention to the fact that we do not have any effective means of policing our existing laws, passed in 1990, to enforce lack of access by people under the age of 18 to tobacco.

Mr Connolly: Do not worry about that, Mr Humphries; it is well in hand.

MR HUMPHRIES: It has not been well handled in the last three years, Mr Connolly. Nothing has been done, frankly, in the last three years to ensure that those laws, all passed unanimously by this Assembly, were enforced. Nothing was done. To my knowledge, not a single prosecution was launched.

Mr Connolly: No; that is not correct. There was one that went through to the DPP.

MR HUMPHRIES: Well, almost nothing has been done to enforce those laws. We all know that in this Territory it has been almost equally as easy to get hold of a packet of cigarettes, if you happen to be 16 or 15 years old, as it has been to get hold of a bottle of beer. Nothing has been done by this Government. Pubcard will be a useful instrument not just for purveyors of alcohol but also for retailers of tobacco products to try to prevent that relatively free access by young people to that product as well.

Mr Deputy Speaker, I think it is extremely important that we acknowledge the timeliness of this initiative and that we also acknowledge that the Government has been disgracefully inactive on this question in the last three years. It stands condemned for not having taken any serious initiative to get this thing to the stage where it is being implemented. Today we have, I think, more than anything else, the proximity of the 18 February election to thank for the fact that we are getting this long overdue and important initiative in the ACT.

MRS GRASSBY (12.24): I, like Mr Stevenson, always worry about identification cards, and I will not have this called a pubcard. If anybody wants to get an identification card, this is a good way to do so. They will be free to have it or not to have it.

Mr Moore: That is very important.

MRS GRASSBY: Mr Moore knows full well, and so does Mrs Carnell, because she heard it, that this will not fix under-age drinking.

Mr Humphries: It will go some way towards it, though. It will be a big step in the right direction.

MRS GRASSBY: It will help the people who have an establishment where people go and drink. It will make it a lot easier for them, but will they really police it as hard as they should? Will they really look after the under-aged? It puts them in a position where they cover themselves. That is all it does. We all know that if young people want to drink they can get it so easily that it does not matter. Most of the drink is obtained off-licence. It is not obtained in hotels or pubs, as you wish to call them, or nightclubs; it is obtained off-licence. One young girl who works after school in a supermarket here in Canberra told me some time ago that she was working on the checkout when a person she knew was under 18 came through with a bottle of alcohol. When she said to him, "I cannot sell it to you", he said, "Do you want to get bashed up at school tomorrow? That is what will happen". She said that she let it go. These are the sorts of things that can happen. If you think this is going to fix under-age drinking you are being absolutely ridiculous. It will not fix under-age drinking.

The point is that it will become an identification card, and, if you want to have one, you can have one. It is not a pubcard. If I thought it was going to fix under-age drinking I would have supported it wholly three, four or 10 years ago. I know, after owning two hotels, that an identification does not really fix things. People can get in the door without you seeing them, and somebody else goes to the bar and buys the drinks. The best way to find that out is when they come to the bar. You know that they are under age, but there is a big crowd and you cannot find them. You say, "Show me your identification", after they have ordered the drinks, and they say, "I will get it". Somebody else comes up and orders exactly the same drinks, so you know that the person was definitely under age. You go around the hotel, trying to find them. They are very clever at hiding and can be very sneaky about it. If I really and honestly felt that this would fix it I would say, "Wonderful"; but it will not fix under-age drinking at all.

I think it will help the proprietors of all the businesses. It will make it easier for them. I suppose that, if it is going to make it easier for them, that is what governments are supposed to be here to do - to make it better for businesses. That is what the Liberal Party thinks anyway. I would like to think that it will do something like that and I will be very pleased if it does, because I think that is one of our biggest problems. That is the problem that has been proved to us. As it is coming in, it will be an identification card, and anybody, of any age, will be able to get one.

There are many people who do not carry identification. I met somebody the other day who said that they had never had a card from any bank in their life. They had never had a card from any business in their life. They do not drive a car and they do not have a passport. They find it very difficult to provide identification. This possibly will be very good for them. They will be able to get a card that will identify them. If they are ever asked for identification, they will have something to show. I would say to the Government that in this case it is obviously a very good idea.

Question resolved in the affirmative.

Sitting suspended from 12.27 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Cardio-Thoracic Unit

MRS CARNELL: Madam Speaker, my question is addressed to Mr Connolly as Minister for Health. Minister, is it not true that a recent consultant's report of an inquiry carried out on behalf of your Government into the need for a cardio-thoracic unit in Canberra shows that a unit is clinically viable and could start up in 1995 with 300 patients per year, increasing to 500 patients? Taking into account the $14m increase in the health budget announced yesterday, why have you again ignored the demonstrated clinical and social need for a cardio-thoracic unit in Canberra?

MR CONNOLLY: Madam Speaker, the Liberals are desperate for an angle to attack the budget. They were scratching around furiously last night and this morning saying, "You are spending too much on health. The Commonwealth Government says that you spend $45m too much on health". Presumably, the Liberals would spend less, because, after all, in the *Canberra Weekly* you have said of health and education, "We have to take a big relook at whether the Government should be providing those services at all". You either are ignoring, which is somewhat discreditable, or are simply ignorant of, which is excusable, the fact that the raw figure of $45m overspending ignores the offset of $26m of cross-border transfer. You have been health spokesman for three years. Presumably you know that, so why do you talk about a $45m overspend? Madam Speaker, again the Liberals, desperate for an attack - having criticised us for spending too much on health, it seems - are now saying, "Why do you not spend a bit more?".

Madam Speaker, what we have said about the cardio-thoracic unit is that we have received a report which says that a cardio-thoracic unit in Canberra could be viable. On the costing options, we received varying pieces of advice which run from the rosy view that it may be cost neutral. The experience of health costings over recent years would lead one to look askance at that. The more general range is between $1m and $4m. It is viable, Madam Speaker, only if all the patients from the ACT and surrounding regions take part in the service. While cardio-thoracic surgery is no longer the leading edge change technology that it was perhaps 15 or 20 years ago, it is absolutely essential that the surgeons and the theatre staff be doing it all the time. You cannot do a couple of cardio-thoracic operations this week, do other surgery next week and do a couple of cardio-thoracic operations the following week. You need a throughput of between 300 and 500 a year.

Certainly, while we are consolidating and enhancing the health system, while the Liberal Party and their various friends are running around this town talking about Third World medicine and running down the state of the Woden Valley Hospital and while you are making these silly little cheap political attacks, it is a little optimistic to assume that everybody, including those privately insured, who now go to St Vincent's Private Hospital - a large bulk of public patients from the ACT also go to St Vincent's Private Hospital - will immediately come to the ACT, particularly when some of the world's great centres for heart surgery are only four hours away and particularly when you people are engaged in your cheap political attacks on the cardio-thoracic unit.

What I have said to the doctors and to the nurses - to everyone involved in the health system - is, "We have to get on top of the financial challenge of running ACT Health". We are making great strides on that. Members opposite were woefully inadequate when they had the challenge, so they ought not to smirk. What we have said, in publishing and tabling the Andersen report in this place, is that there is about $20m worth of inefficiencies in the current hospital system that, as a goal, we need to capture. Arthur Andersens have indicated - and they are amongst the best private sector advisers you can buy, so if they tell us that this is the only way to go we must presume that they are correct - that there is no magic wand. It will take about three years. First, we need to establish the financial imperative, which we are doing, and then we need to move to capture some of that money.

What we have said, Madam Speaker, is that in three years' time we do not necessarily want to be spending $20m less on health; that we want to see enhancing services. The cardio-thoracic unit is really something that we are holding out to the staff at Woden Valley Hospital. We are saying that, if we can go down the path of reform and if we can achieve these savings, it is a facility that we would like to provide. We would like to enhance services and to have the full range of services. A hospital that has been through a process of massive change and rebuilding in recent years needs a period of consolidation.

We have adopted a strategy of enhancing already excellent services to absolute Australian and world standard, hence the $500,000 for the oncology department to ensure that a phoresis machine is operational. On the advice that I received from Dr Pembrey and his colleagues an hour or so ago when I was at the hospital, we will be doing our first bone marrow transplants early in 1995. In fact, the machine will be coming on stream within weeks, doing blood work and isolating stem cells; but for full marrow transplants it will take some six months to get the teams operative, to get the freezing technology operative - to get all of that leading edge stuff operative. These are procedures that are quite new. We will have world-class standards in oncology.

The outstanding area which we need to be a full hospital - of course, we are coming on stream with teaching facilities next year - is cardio-thoracic. It is something that we have said that in principle we would like to provide, but we are not going to simply throw another $4m into the system to provide this massive new service. We are going to say to the medical staff and the nursing staff, "To some extent, this is the incentive for you to go down the path of change as recommended by the Andersen report".

We are not going to be like Liberal governments around Australia which in opposition prattle on about how they want to enhance health and attack their government for all the problems in health and for the waiting lists but which, when they get into government, attack with the broadaxe. We are not going to be like Kate Carnell/Dean Brown over there. The South Australian Premier, Dean Brown, who during the election campaign made all the promises about enhancing public hospitals in South Australia, is sacking nurses by the thousands - - -

Mr Kaine: I raise a point of order, Madam Speaker. According to our standing orders, answers are supposed to be succinct. This Minister is starting to sound like the old one - full of wind and doing nothing.

MADAM SPEAKER: Thank you for bringing that to my attention, Mr Kaine. I am sure that Mr Connolly is well aware of the standing orders. Continue, Mr Connolly.

MR CONNOLLY: Madam Speaker, we are doing a lot. We are doing so much to improve health that I would need a full hour rather than a few minutes in question time to explain. But we are not this year putting the funds into a cardio-thoracic unit.

Mrs Carnell: Would you like leave?

MR CONNOLLY: I would not want to interfere with other members' question time privileges. We are not providing the cardio-thoracic unit this year. We would like to have it, but it is really an incentive as we go down the path of reform in the health system. I presume that Mrs Carnell is taking the fictional advice from the radio program this morning and making a promise that she knows cannot be kept.

MRS CARNELL: I ask a supplementary question, Madam Speaker. Minister, is it not true that the consultant shows that the cost of providing a cardio-thoracic unit is not $4m, as you have just suggested to the Assembly, but in fact $3.7m, which is offset by $2.63m, giving an overall cost of just over $1m to provide for 300 patients who are currently being sent to Sydney every year for cardio-thoracic surgery?

MR CONNOLLY: As I said, the estimates that I have received from various advisers range between cost neutral - - -

Mrs Carnell: I just read your consultant's report.

Mr Humphries: Your consultant has said that.

MR CONNOLLY: Yes, but we have received a range of advice on this, and the experience of advisings - - -

Mrs Carnell: That was the top one.

MR CONNOLLY: Their ignorance is sad. We received a range of advisings in this area, and the experience tends to be that one looks to the more expensive prediction of what a health service will cost, because it tends always to be very expensive. Again, it says that it is clinically viable only if we effectively have everybody from the ACT and the surrounding region taking part in the service. While you people engage in your cheap and cynical political exercise of constantly bagging the hospital, who is going to put their hand up and say, "I want to be first to go to Woden instead of St Vincent's."? The Liberal Party says - less than honestly, of course - that Woden is providing Third World medicine. That is the sort of rhetoric that we keep getting from members opposite. Until you stop bagging the hospital, you really have to have a leap of confidence to expect people to want to go there for this type of surgery.

Madam Speaker, it is our intention to provide this unit, to have the full range of health services in Woden Valley Hospital, but not this year. We cannot solve every problem in one budget and, unlike the Opposition, we will not make silly promises that we cannot keep.

Child-Care

MR BERRY: My question is directed to the Deputy Chief Minister in his capacity as Minister for Housing and Community Services. Can the Minister outline the effect of the allocation in the recent magnificent Follett budget for expansion of the national child-care strategy?

MR LAMONT: I thank the member for his question. In the International Year of the Family this is another example of the Follett Labor Government delivering. Madam Speaker, what in fact we are - - -

Mr Cornwell: You have it mixed up with a Pryor cartoon.

Mr De Domenico: Mother's milk.

MR LAMONT: I can understand why you would make that suggestion, Mr De Domenico, when you regard politics as something that belongs in *Play School*, which is demonstrative of the way you have been dealing with these matters consistently since your election to the house.

Madam Speaker, in this budget the ACT Government has committed funds for the remainder of the extended State-Commonwealth national child-care strategy which was agreed to in 1993. The extended national child-care strategy, when complete, will have established 230 long day care places, 660 outside school hours care places and 230 family day care places in the ACT over the four years from 1993 to 1996. This new funding announced in yesterday's budget will provide the capital and recurrent funding for 82 new long day care places and 150 new year-round outside school hours care places in 1994-95 and 93 new long day care places and 210 year-round outside school hours care places in 1995-96. Madam Speaker, the new services will be provided in areas of high need for child-care as recommended by the Children's Services Planning and Consultative Committee and agreed to by the ACT and Commonwealth Ministers. The first child-care centre for Gungahlin will be built with this funding. It is expected to be co-located with the new preschool at Nicholls, enabling the community to benefit from the comprehensive early childhood services at one location.

Madam Speaker, the ACT community is already benefiting from the establishment of 75 long day care places, 160 family day care places and 740 outside school hours care places under this strategy. In addition, a new long day care centre under construction at Greenway in Tuggeranong will provide another 40 places.

MR BERRY: I ask a supplementary question, Madam Speaker. Would the Minister detail the expansion of child-care which ACT Government Service employees will enjoy?

MR LAMONT: Madam Speaker, I think it is appropriate that in this budget the ACT Government is showing its commitment to the provision, again in the International Year of the Family, of affordable day care services and child-care services for its employees. Madam Speaker, 110 long day care places for the use of ACT Government employees have already been established at Acton and Campbell. The ACT Government will be providing funds to fill some of the gaps in the existing child-care provision for its employees.

Pilot programs will be set up to care for four to eight children aged between five and 12 and with disabilities requiring considerable extra support in existing outside school hours care and vacation care programs. We will provide outside school hours care and vacation care for adolescents with disabilities and aged 12 to 19 years. We will also provide 40 vacation care places in various locations to suit the needs of ACT Government Service employees. We will also extend the family day care scheme to enable the provision of child-care for shift workers, workers with unusual or extended hours and workers needing overnight care occasionally - for example, single parents attending conferences. We will also provide child-care for children who are ill and cannot attend child-care centres. We will employ a child-care adviser to implement these pilot programs and liaise between service providers and ACT Government Service employees. Madam Speaker, despite some of the rhetoric that we have heard spew forth from the other side of the chamber in the last 24 hours about the new ACT Government Service which we hope will come into effect on 1 July, this is another positive commitment from this Government to its employees.

Government Service - Voluntary Redundancies

MR DE DOMENICO: Madam Speaker, my question is addressed to the Chief Minister. I note that the budget has provision for $17m worth of voluntary redundancies. Chief Minister, noting the difficulties that you had last year regarding voluntary redundancies, how do you intend to proceed with them this year, which particular areas have you targeted, would you accept redundancies from wherever they arise - if you have not targeted any areas - and, if the answer to that question is yes, how does this accord with your budget plans?

MS FOLLETT: I thank Mr De Domenico for the question, Madam Speaker. I should advise members that one of the greatest difficulties we had with our redundancy program last year was that the demand exceeded the available funds. Despite the fact that we had seen in the Industrial Relations Commission a move against voluntary redundancies and against the service-wide approach which the Government had taken, when we revised our approach to make these redundancies available on an agency by agency basis there was, in fact, an enormous take-up of them. In particular, the take-up in the Department of Education was very strong indeed. There would have been a second round of voluntary redundancies in Education had the funds been available. They were not.

It remains my view that continuing to make allowance for voluntary redundancies makes good sense. Mr De Domenico has asked how we will be targeting them. We will not be targeting them by any particular agency. As occurred in the current financial year, the funds are within a central pool and they will be made available on the basis that there is a demonstrated return to the Territory; in other words, there must be a saving over time and, if there is that saving, redundancy proposals will be considered on their merits. Madam Speaker, it is very important to acknowledge that all of these redundancies are on a voluntary basis; there are no enforced redundancies. It is very important also to note that all of the provisions of relevant awards and other conditions of service are observed in the implementation of redundancy programs.

MR DE DOMENICO: I have a supplementary question, Madam Speaker. Chief Minister, you mentioned in your answer that voluntary redundancies would be looked at on the basis of savings over time. How are you going to gauge those savings?

MS FOLLETT: Madam Speaker, where voluntary redundancies are part of the restructuring proposal within an agency, then it is possible for the savings in that restructuring proposal to be costed. The Treasury officials look at each proposal on its merits. They make an estimate of when there will be a return, when the redundancy proposal might, in effect, pay for itself and whether that represents good value to the Territory community. There is not a hard and fast rule. In some cases returns can be achieved within a year, 18 months or two years. In other instances the return is over a somewhat longer period. But there is that scrutiny of all proposals. This is an area where I believe that making this provision is a prudent form of budget management. As I say, where it is entirely voluntary and where all of the award provisions are honoured, I believe that it is a fair deal also for the employees who may be made an offer.

Community Precincts

MR STEVENSON: Madam Speaker, my question is directed to Mr Lamont. It concerns precincts which have been established in some community areas around Canberra. We understand that there is growing interest in this traditional idea of having local grassroots community involvement; certainly, the community council groups in Canberra have gone very much this way. I ask Mr Lamont: When were the precinct areas established, what was the goal, and how are things coming along so far?

MR LAMONT: I thank the member for his question. It is another reminder to members of the Assembly and, indeed, the Canberra community that the Follett Labor Government is consulting the community and involving the community in the provision and improvement of services, particularly such essential services as the shopping centres within the ACT.

We have established a pilot program at the O'Connor shops which we will extend to the Narrabundah shops. Following what I am confident will be the successful resolution of issues, we will then extend into a number of other shopping centres in the Territory, particularly in the older areas. This project is designed to refurbish those shopping centres, with community input, to a level that would be consistent with, say, Manuka.

As you have seen over recent years, the level of refurbishment in Manuka has contributed to Manuka's success as a vibrant centre within our urban framework. At the O'Connor shops we have got together with the community, individual organisations within the community and the shopkeepers to discuss ways in which the amenity at those shops can be improved - not just the physical infrastructure but the strategy dealing with outdoor cafes, the strategy dealing with parking and the strategy dealing with the maintenance of the built form as well.

This evening I will be attending a public meeting which has been called to discuss the implementation of the plans that have been broadly canvassed within the O'Connor community. I indicate that we have already commenced work in the O'Connor area by removing an old park structure which was regarded as unsafe. That was removed at the request of the community. I was only too happy, in my first days as Minister for Urban Services, to comply with that reasonable request and to assist the community in once again identifying with what is a very vibrant shopping centre. The O'Connor shops are dearly loved by most of the residents of O'Connor and the region. Residents are desirous of seeing that shopping centre continue to be a vibrant shopping centre.

I believe that this pilot program will establish the procedures that the administration will use to extend the refurbishment of our regional shopping centres throughout the ACT over the years ahead. I am hopeful that in the coming financial year we will be able to secure the restoration of O'Connor, Narrabundah, Hughes, Watson and possibly one other shopping centre.

Mr De Domenico: Are they not all in the one electorate?

Mr Humphries: They are all in the Molonglo electorate.

MR LAMONT: I hear bleats from the other side. I can understand why there is some confusion on the Opposition benches when one of your own leaders - and I presume now that we can refer to Wynken, Blynken and Nod - is basically saying, "I do not believe that it is the role of government to provide services". That is exactly what this Government is about. The pilot program, Mr Stevenson, will enable the Government to better focus those services and provide them at a level required by the community.

Police Budget

MR HUMPHRIES: My question is addressed to the Attorney-General. I refer to his media release yesterday entitled "Increased Police Budget", in which he trumpeted an increase of $295,000 in the police budget. Members will be aware that the budget for maintenance of law and order as set out in the budget papers, in fact, provides for a decrease in the total appropriation of some $1.759m. The Minister has indicated to me in writing that part of that difference is accounted for by the fact that we have only 26 pays in this financial year, not 27; but it still leaves an apparent reduction in the police budget of between $200,000 and $400,000 this year, which stands in contrast to his claim of a $300,000 increase this year. Can the Minister explain how it is that the budget papers are wrong, misleading or inadequate in explaining this apparent reduction in the Government's budget for policing in the Territory in 1994-95?

MR CONNOLLY: Madam Speaker, in this case Mr Humphries is clearly not mistaken; he is clearly being dishonest. He wrote to me last night, in an apparently friendly letter, inviting me to explain the discrepancy between last year's figures and this year's figures, and I responded to him, pointing out that last year the amount appropriated for the police - because of some adjustments for emergency telephones, of all things - was some $52.897m. That is a larger sum than the amount appropriated this year. It is also a considerably larger sum than the amount appropriated in 1992-93. Last year I did not say, "I have increased the police budget by 3 per cent". That would have been dishonest of me. Mr Humphries last year did not say, "You have increased the police budget". Last year Mr Humphries said - - -

Mr Humphries: Because there was a reason. There was a twenty-seventh pay.

MR CONNOLLY: I know that Mr Humphries is getting agitated, but members over there need to hear the answer to this. Last year Mr Humphries said, "You have cut the police budget". He was quite right. I did not claim to have increased the police budget, even though it had gone from $51.5m in 1992-93 to $52.89m - in fact, the published figure was $53m - in 1993-94. I did not claim that that $1.5m was an increase in the police budget. Why was that? Madam Speaker, because of the peculiarity of the way calendars, paydays and pay arrangements operate for different agencies, the police force had 27 pays last year, as Health did the previous year.

Last year there was a sum of $1.519m for additional recurrent expenditure for police which I, quite honestly, did not claim as an increase in police expenditure. Mr Humphries certainly did not claim it as an increase in police expenditure. This year, when that figure is taken off, Mr Humphries bleats, "You have slashed police expenditure". Of course, I have not. We have always acknowledged that we would be looking for a 2 per cent saving in the police budget. We said that that saving would be $880,000, and we have broken up where that saving was achieved. But we have enhanced the police budget by some $1.176m of additional initiatives, which means a net increase of - - -

Mr Kaine: When you say "enhanced", do you mean "increased"?

MR CONNOLLY: I mean "increased". It means "increased", Mr Kaine. The gross dishonour of having the $1.5m explained to you but putting out a press release accusing me of telling porkies and saying that I have in fact slashed the police budget by $1.7m is breathtaking, but it is not something that I am surprised at.

While I was away from Canberra the other week Mr Humphries put out a press release saying that Canberra has the highest rate of shoplifting in Australia; that the Institute of Criminology's report says that Canberra has the highest rate of shoplifting in commercial businesses. What the Institute of Criminology, in fact, said in their report was that particular care must be taken. For example, the number of respondents from the ACT and the Northern Territory was very small - 17 - so little can be said with confidence about business in these small States. Mr Humphries is not averse to taking a report, based on only 17 responses, saying that we should take the findings with a great deal of caution and putting out a press release screaming, "The Institute of Criminology says that crime is on the rampage in Canberra".

Likewise, the biggest porky pie about the budget is the claim that the police budget has been slashed. In fact, the law and order budget faces a $1.76m or 3.3 per cent reduction. To say that, Mr Humphries, when you fully know, as you indeed acknowledge in your question, that the bulk of that is $1.5m by way of a twenty-seventh pay, is dishonour of an extraordinarily breathtaking level. I am disappointed in you, Mr Humphries, because I expected better of you, and I am sure that the public of Canberra did as well.

Madam Speaker, on page 182 of the budget papers of 1993-94, which I referred Mr Humphries to last year, there is a significant range of one-offs for 1993-94 which, it was clearly identified would not occur in the next financial year. Included in those was $50,000 we spent last year on a one-off project - a consultancy for a review of ACT policing - which we are not spending this year. There was also $700,000 for fit-out, which we are not spending this year, and so it goes on. You cannot add the one-off add-ons for one year to another year and compare them; you have to do that offsetting. It is a complex process, but I will give it all to you in writing.

Last night, as you know, although you did not say so in your question, I concluded my explanation of the $1.5m by saying, as always, that I am happy to offer you a briefing on the details of the budget. Mr Dawson's office will be happy to cooperate in finding a mutually convenient time. But, no; you do not accept that it was a $1.5m one-off for the twenty-seventh pay. You do not pursue the offer of a briefing to explain the complexities of all the single year one-offs, which give you a net budget effect. Instead, you put out a grubby little press release saying that I have slashed the budget by $1.76m, when you know full well that the bulk of that is the $1.5m for the twenty-seventh pay. If you are right now, Mr Humphries, you have been wrong for the last 12 months, because you should have been congratulating us last year on a 3 per cent increase in the police budget, because that is what the raw figures show. I was not dishonest enough to try to claim that last year we increased the police budget. Although on paper we did, in practice we did not. This year, on paper and in practice, we did. Mr Humphries, try as you might, you cannot alter that reality. Again, the briefing that I offered you in writing I offer you here again. I hope that you take up the offer.

Telecommunications Towers

MRS GRASSBY: My question is addressed to the Minister for the Environment, Land and Planning. I understand from press reports that the Minister recently met with senior managers from three telecommunications carriers about the proliferation of cellular phone towers around Canberra. Can the Minister advise the Assembly of the outcome of these discussions, as I have had lots of complaints about the towers?

MR WOOD: Madam Speaker, I think I have said in this Assembly before that there is concern among States, Territories and local governments about the proliferation of telecommunications towers. A couple of things have happened. I did see representatives of each of the three current carriers, and I thought we had a satisfactory meeting. We have agreed to draw up a communications plan so that what happens in the future in Canberra is coordinated and is understood; we get to say what we believe should happen, as do the carriers and - as is my wish - the ACT community.

That we were able to have such a profitable meeting flows from the interest of those carriers in maintaining a good public image but also from legal advice from Mr Brian Howe. Some time ago I asked Mr Howe to intervene in this case, because of his responsibility for the National Capital Planning Authority, which has a role in the ACT. As a result of my approach, Mr Howe sought legal opinion, and that legal opinion now advises that the ACT appears to be unique in Australia in that there can be some control over these carriers. The Commonwealth Act overrides provisions of States and Territories but does not override provisions of the Commonwealth. It appears that because of the National Capital Plan we are able to exercise control. That background was certainly very helpful in our discussions with the carriers.

We have agreed, as I say, that we will formulate a plan for the future. As we go down that path I will be pursuing the aim that we co-locate towers and use the Black Mountain tower as much as possible, and, in particular, if at all possible, that we avoid our hills because of the special respect we in the ACT pay to them.

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

AUDITOR-GENERAL - REPORT NO. 3 OF 1994
Public Housing Maintenance

MADAM SPEAKER: Members, I am going to present two reports; but first may I, on your behalf, say what a pleasure it is to see people from the University of the Third Age in our public galleries today. Welcome.

Members, I present, for your information, Auditor-General's report No. 3 of 1994, "Public Housing Maintenance".

Motion (by Mr Berry), by leave, agreed to:

That the Assembly authorises the publication of Auditor-General's report No. 3 of 1994.

LEGISLATIVE ASSEMBLY MEMBERS SUPERANNUATION BOARD
Paper

MADAM SPEAKER: Members, for your information, I present the Legislative Assembly Members Superannuation Board annual report for 1992-93, pursuant to section 22 of the Superannuation (Legislative Assembly Members) Act 1991.

INQUIRY INTO CONTRACT BETWEEN ACTTAB AND VITAB LTD
Report and Government Response

MS FOLLETT (Chief Minister and Treasurer) (3.05): Madam Speaker, for the information of members, I present the Government's response to the board of inquiry report into a contract entered into between the ACT Totalisator Administration Board and VITAB Ltd, together with the report, and I ask for leave to move a motion authorising the publication of the papers.

Leave granted.

MS FOLLETT: Madam Speaker, I move:

That the Assembly authorises the publication of the Government's response to the Board of Inquiry Report into a Contract entered into between the ACT Totalisator Agency Board and VITAB Ltd, and the report.

Question resolved in the affirmative.

MS FOLLETT: Madam Speaker, I move:

That the Assembly takes note of the papers.

I wish to advise members that copies of the papers will be circulated at the conclusion of my remarks. Madam Speaker, in responding to Professor Pearce's report, I am aware of a number of ironies. The most obvious irony is the fact that the report clears the former Deputy Chief Minister, Wayne Berry, of all allegations made about his role in the handling of the contract between ACTTAB and VITAB. The report of Professor Pearce's inquiry says:

... I do not regard Mr Berry as having any personal responsibility flowing from any matters relating to the entry by ACTTAB into the [VITAB] contract.

In relation to Mr Berry's position as a Minister, the report says:

... he would have been under no obligation to resign because of the entry of ACTTAB into the VITAB contract.

Madam Speaker, a further irony is that none of the wild allegations by the Liberal Party about the VITAB issue has been proved correct. The whole exercise has been no more than a grubby attempt to score points at the expense of the former Minister. It was so grubby, in fact, that the Liberals produced in this Assembly a doctored version of leaked police criminal records. That so-called evidence, Madam Speaker, was apparently provided to them by the Victorian Liberal Minister for Racing to suggest a connection between Mr Berry and criminal activity. Of course, and this is a further irony, it was the Victorian Liberal Government which was forced to cancel its contract between VicTAB and a Vanuatu company when real criminal involvement became apparent.

Having disposed of those allegations, I will turn to Professor Pearce's findings about what happened, and why. The inquiry report contains useful background about the development of the betting industry in Australia and the establishment of TABs in the 1960s. Professor Pearce makes a point of noting that the State and Territory TABs have operated on the basis of a "gentlemen's agreement" in their relations with each other. The understanding is that the various TABs do not poach one another's clients. Professor Pearce says that this agreement is not always honoured, but in the main most TABs do not actively seek to induce individual punters to transfer their business.

The report says that the industry is on the verge of considerable change. The privatisation of VicTAB will have a marked effect on competition between the TABs at a time when the growth in industry turnover is low. The logical conclusion is that, to compete for turnover and for profits, the TABs must either expand overseas or lure punters from each other by offering inducements, contrary to the gentlemen's agreement. Indeed, Professor Pearce says that a privatised VicTAB will be obliged to poach other TABs' customers if it is to serve its shareholders properly. As a result, Madam Speaker, ACTTAB were understandably keen to leap into a possible Asian market and to be competitors in the new era. Professor Pearce quotes convincing evidence that ACTTAB also believed that they were competing with other TABs for the VITAB contract, just as Mr Berry informed the Assembly. It must also be noted that VicTAB already had a Vanuatu relationship with the Chung Corporation. ACTTAB were thus negotiating a contract in direct competition with the soon to be privatised VicTAB, with whom they had a contract allowing access to the VicTAB superpool. This contract could be terminated without cause.

Against this background, the report finds that enthusiasm overcame ACTTAB as they rushed to tie up the deal. It is now apparent that there was a lack of care and follow-up by ACTTAB and, to a lesser extent, officers of the Department of the Environment, Land and Planning. The report also finds that there are some weaknesses in the relationship, or the understanding of the relationship, between ACTTAB on the one hand and the department and Government on the other.

I will turn, Madam Speaker, to Professor Pearce's conclusions. Professor Pearce came to nine conclusions on the matters he was asked to investigate. I will detail the Government's response to these conclusions as I go through them. The conclusions begin:

(1) Mr Berry, his Departmental officers, ACTTAB officials and the various advisers to these parties acted in good faith throughout the negotiations leading to the entry by ACTTAB into the contract with VITAB.

(2) Mr Berry acted properly in his role as Minister in relation to the VITAB contract but was not well advised. He would not have been under any obligation to resign as Minister for events that flowed from that contract. This finding bears no relationship to the motion of the Legislative Assembly expressing no confidence in Mr Berry.

Madam Speaker, these conclusions do not surprise me. I had always expected that a dispassionate and apolitical examination of the VITAB issue would find that no fault lay with the Minister.

I turn now to Professor Pearce's conclusions which deal with the role of ACTTAB. There are several of them. He said:

(3) There were deficiencies in the negotiating processes that led to the VITAB contract. The most serious of these were:

. insufficient consideration was given to the likely impact on the return to the Government and the racing industry of entry into a contract with a privately owned TAB;

. inadequate consideration was given to the manner in which a privately owned TAB could be used by its proprietor;

. there was a failure to check the backgrounds of the directors of VITAB;

. the terms of the contract were weighted in VITAB's favour.

(4) The likely impact of entry into the VITAB contract on ACTTAB's relationship with VicTAB was not sufficiently recognised and no written statement of VicTAB's position was obtained.

(5) Primary responsibility for the problems that have flowed from entry into the VITAB contract rests with ACTTAB. It acted in good faith to obtain perceived advantages in financial terms and in development for the future. However, in seeking these advantages, it failed to think through the full ramifications flowing from the contract. It also demonstrated an anxiety to enter into the contract lest it lose out to another TAB without knowing whether there was competition and whether VITAB was an appropriate body with whom it should contract.

Madam Speaker, on receipt of Professor Pearce's report the Government was faced with a decision on the future role of the ACTTAB board and the appropriate measures to be taken to ensure continuing public confidence in ACTTAB. Reviewing Professor Pearce's report in its entirety, the errors and omissions made by ACTTAB in the course of its making a contract with VITAB can be summarised as followed: First, ACTTAB signed a confidentiality agreement in relation to the VITAB contract without informing the Government and without taking any legal advice. In the Government's view, this action was not consistent with a careful approach to protecting the Territory's interest in ACTTAB. This confidentiality agreement also constrained ACTTAB in any checking that needed to be done into the principals of VITAB.

Second, ACTTAB had ultimate responsibility for conducting full checks into the principals of VITAB, the company with whom they were about to enter into a major contract. Professor Pearce found that not only were the checks ACTTAB's responsibility, but ACTTAB's own correspondence to the Victorian TAB dated 1 September 1993 states:

Please note, our solicitors Macphillamy Cummins and Gibson are conducting full investigations into VITAB Ltd (including probity checks).

Although the Minister had quite clearly directed that full investigations be made into the principals of VITAB, these investigations were not made. At best, this omission by ACTTAB could be seen as an act of carelessness. At worst, however, it could be seen as a failure to carry out a proper direction given by the Minister for which ACTTAB was responsible.

Third, ACTTAB's advice in relation to the VITAB contract was not always accurate. For example, ACTTAB, without adequate checking, gave the Minister to understand that the VITAB contract was being actively sought by other State TABs. As Professor Pearce has pointed out, this was not the case, and only Queensland had been approached, and then informally, in relation to the VITAB contract.

Fourth, in relation to participation in Victoria's superpool, the advice received by ACTTAB concerning the impact of the VITAB contract on this arrangement was never in writing. In fact, the chief executive officer of ACTTAB had written to the Victorian TAB on 12 August 1993 requesting "urgent written agreement that ACTTAB's proposed arrangement with VITAB Limited will not in any way prevent the continuation of our ongoing agreement to transmit pools to you as executed on 31 August 1987 and amended on 1 February 1991 and on 31 March 1992". No definitive reply to this request was received by ACTTAB. The failure of ACTTAB to follow up on this request, and its consequent failure to protect the Territory's own access to a superpool, was again a failure to apply due care in the exercise of ACTTAB's duty to the ACT. ACTTAB failed to inform the Minister of any risk to the ACT's superpool arrangement.

Fifth, in relation to the VITAB deal itself, Professor Pearce points out that the deal was weighted in VITAB's favour, possibly to the detriment of ACTTAB itself. At no stage was the Minister advised of this and, again, due care was not exhibited by ACTTAB in advising the Minister of the merits of the proposed contract.

Madam Speaker, the Minister for Sport, Mr Lamont, sought advice from the ACT Government Solicitor concerning ACTTAB's performance in relation to the Betting (Totalizator Administration) Act 1964. In relation to ACTTAB's failure to conduct probity checks on VITAB, the Government Solicitor noted that, had these checks been undertaken, they may not have altered the decision to enter into the VITAB contract. However, the Government Solicitor further noted that the Minister was entitled to expect that the probity checks had been undertaken. He said that the failure to undertake these checks was "a serious failure to conduct an essential process".

In relation to the merits of the VITAB agreement, the Government Solicitor notes that the "Minister was not advised on this issue and therefore kept in ignorance of the magnitude of the risk involved". The Government Solicitor concludes that "in the circumstances it is open to conclude that the conduct of ACTTAB involved misbehaviour and that the chief executive officer did not perform his functions to a standard required by the agreement".

It was the Government's view that a decisive response was needed in order to restore confidence in the TAB and to ensure that the management of ACTTAB met the standard required of such an important public enterprise. The Government therefore took action to replace the board of ACTTAB. Subsequently, the new board acted to terminate the contract of the chief executive officer. Madam Speaker, members may be concerned, and I have heard some of them express concern, about whether natural justice was observed in relation to the Government's dealings with ACTTAB's board. I consider that it has been. The inquiry itself, in fact, constituted an opportunity for the board members and the chief executive officer to put their views on a matter where there had clearly been criticism of actions taken by them. The chief executive officer and the chairman of ACTTAB both appeared before the board of inquiry and were represented - at public expense, I might say - by senior legal counsel in that process. Furthermore, Madam Speaker, on receipt of the report by Professor Pearce, the Minister for Sport gave ACTTAB board members and the chief executive officer the opportunity to review the report and to respond to him on any matters which they wished to raise as a result of the report. In the event, no matters were raised with the Minister. I repeat, Madam Speaker, that the Government had a clear requirement to act upon Professor Pearce's report swiftly and decisively. To have ignored Professor Pearce's finding that "primary responsibility for the problems that have flowed from entry into the VITAB contract rests with ACTTAB" could well have been seen as failure to fulfil the Government's own duty in relation to TAB operations in this Territory.

The next conclusion reached by Professor Pearce, No. (6), says:

The Department of Environment, Land and Planning paid less heed to the effect of the contract than was desirable. This flowed largely from the relationship between the Department and ACTTAB as a statutory authority whereby the Department considered that ACTTAB was responsible for the contract. Nonetheless the interests of the ACT and the racing industry in terms of possible loss of revenue were not given the weight that they should. A greater effort should have been made to understand the possible outcomes of the contract and briefing sought from ACTTAB.

(Extension of time granted) I thank members. Professor Pearce's report contains, also, some comments in relation to individual departmental officers and ministerial staff. I do not intend to make further comment on that matter because, as members will be aware, the performance and supervision of departmental officers is a matter for departmental management, and the conduct of ministerial or members' staff is a matter for the individual Minister or member.

There is, however, a need to review and to revise the relationship between the Department of the Environment, Land and Planning and ACTTAB in order to ensure that there is an appropriate level of accountability to the Minister and by the Minister to the Assembly. Professor Pearce states:

The management of a government's interests through a statutory authority rather than a department can cause difficulties and many of the problems in this case have arisen because of those difficulties.

He goes on to say that ACTTAB, because of the nature of its function, which has traditionally been a private sector function, has operated with a high level of independence. It is an inescapable fact, however, that ACTTAB operates under an Act for which, in this Assembly, a Minister has administrative responsibility. For this reason, if for no other, it appears to me to be necessary for the department to have a liaison and monitoring role in relation to ACTTAB. This role needs to be stronger than it has been to date. In addition, the role needs to be fully accepted by both the department and ACTTAB, and appropriate administrative arrangements must be put in place to accommodate this role. Madam Speaker, the Minister for Sport has taken action to appoint to the ACTTAB board an officer of his department. This action should go some way to ensuring that there is a degree of liaison and monitoring of ACTTAB.

I consider that there is also a need for a higher level of monitoring of at least major decisions by ACTTAB and that the Government should be involved at an early stage in these decisions. This matter is dealt with in some detail in my following remarks. Madam Speaker, Professor Pearce has reached some conclusions which require further action by the Government, particularly conclusion No. (7), which says:

Guidelines need to be put in place to ensure that problems such as arose here do not reoccur because of uncertainty as to responsibility for various actions where a department and a statutory authority are involved in decision making. The respective tasks of the bodies concerned need to be spelled out.

We intend to take two courses of action in relation to this conclusion. The first relates to making it clear what matters should require attention by the Government. Both departments and authorities are required to report to their Minister or the Executive on a defined, and fairly limited, range of matters under the terms of various Acts. On most other matters where a Minister exercises executive decision making authority departments are accustomed to briefing the Minister on significant policy developments and advising on decisions required of the Minister.

The Pearce report points out that statutory authority status can carry with it varying degrees of independence from government control. The Government does not wish to impose some new layer of inflexible reporting rules to apply to every authority. Rather, Madam Speaker, we will strengthen the Cabinet handbook to make it clear that matters involving statutory authorities which are of similar importance to the VITAB contract come to Cabinet. This will be done in a manner consistent with the proper protection of commercial-in-confidence information provided to statutory authorities.

It will also recognise the proper independence, rights and responsibilities of those bodies under their enabling legislation. This practice is already followed in a number of instances. For example, amendments to ACTEW's pricing schedules are provided to Cabinet for information, not for decision. The process of Cabinet consideration has strong built-in checks which require provision of information and consultation with relevant agencies. The Cabinet system provides a high level of assurance that all dimensions of a proposed course of action are examined by relevant agencies.

Madam Speaker, our second response to the proposal on guidelines is to review the arrangements for communication between each authority on the one hand and the related department on the other. An individual protocol will be discussed and agreed in relation to each body, covering delineation of responsibilities between the authority and department, and responsibilities for advising each other and the Minister. These protocols will be negotiated between relevant bodies. They will be flexible documents in practice, and should not be seen as curtailing the proper operations and independence of the authority. The very discussion and existence of these protocols is designed, more than anything, to remind all concerned of the need to think about their actions and responsibilities in relation to other bodies, particularly the Government. Where there is any disagreement the protocol arrangements will be examined by the Government. Should it be necessary to clarify responsibilities, we may find that some minor legislative amendments are brought to the Assembly in due course. As I have already indicated, the Government has no intention of imposing an onerous new workload or compromising the existing independence of authorities. As far as we are aware, Madam Speaker, this is the first time that a government has taken action of this kind to clarify the working relationship between all departments and authorities. We believe that it will be a useful initiative.

In relation to conclusion No. (8) by Professor Pearce, which reads, "The Board of ACTTAB should include a person or persons who is an expert in the operation of TABs", the Government has taken decisive action to strengthen the expertise on the ACTTAB board. Professor Pearce's final conclusion, No. (9), says:

The obligation of ACTTAB to pay a percentage of its turnover as distinct from its profit to the Government should be examined so that ACTTAB will not feel constrained to enter into contracts simply to enable it to meet its financial obligations to the Government.

Madam Speaker, the Government notes that the various States have differing arrangements about the payment of fixed percentages of turnover, or a proportion of profit, to the Government and the racing industry. Arguably, the requirement to pay a fixed proportion of turnover is a way of ensuring a certain standard of efficiency in ACTTAB's operations. Profit targets could be used as another means of defining the expected return to the community. But the profit target might need to relate to turnover levels anyway, given that the whole totalisator operation is based upon paying out percentages of a fluctuating pool of bets. The Government will therefore need to examine this question further in consultation with ACTTAB.

To conclude, Madam Speaker, I would like to place on record the Government's gratitude to Professor Pearce for the way he conducted this inquiry and the timeliness of his report. I consider that he has been fair to all parties in the VITAB issue, and has provided us with a set of conclusions which form the basis for much improved management of ACTTAB in the future. I would like also to thank Mrs Carnell, Mr Moore and Ms Szuty for respecting the confidentiality of this report during the period they have had advance copies. I advise the Assembly that the Government will be moving to amend the Inquiries Act to put beyond doubt the privileged status of reports under the Act.

MRS CARNELL (Leader of the Opposition) (3.29): Madam Speaker, I think it is appropriate to begin my remarks by quoting Mr Berry during one of his more memorable interviews on ABC radio on 17 March this year. He said then:

The Liberals have done all they can to bring this undone and I hope they take some of the credit for it.

Madam Speaker, this report contains little in the way of credit, particularly for Mr Berry or the Government. The Opposition will, though, take whatever little credit there is, for one simple reason, and that is that we did our job. Mr Berry, Ms Follett's Government, his department, his advisers and his TAB did not do their jobs, as the report shows.

Today marks the culmination of a difficult decision that I took, as Opposition Leader, some eight months ago. Last November I decided to believe a small group of Canberrans who came to see me with their concerns about the VITAB contract. The same group, by the way, had been to see the Government and had warned it about the consequences of the deal. Unfortunately, they were ignored. The Liberal Party did what the Government did not do. We listened; we questioned the Minister; in fact, we questioned him again and again. We investigated his answers and spent thousands of hours researching, looking for information that the Government refused to disclose. We helped lift the lid on a deal that was not good for the Territory, was not safe, and would never have happened, as I think the Chief Minister has indicated today, had this Government not decorporatised the TAB. The deal was not good and it certainly was not safe.

Contrast that with Mr Berry's comments on radio on 16 March when he said:

You have to make sure that these things are safe.

Contrast that with Ms Follett's comments on radio on 18 March when she described the contract as "unquestionably a good deal". You were a bit wrong, Ms Follett. I wonder whether the Chief Minister, who said back in March that she did not believe that an inquiry was warranted, still holds that view today.

Madam Speaker, the Opposition accepts the majority of the findings of Professor Pearce in this report under the Inquiries Act, but with some reservations in some areas. The report is an indictment of administrative policy under the Follett Government. It shows what can happen when a government puts ideology and a quick buck ahead of professional management. It is the worst report card that any Chief Minister has had

to receive since self-government. It reflects poorly on her Government, on her No. 1 candidate for Ginninderra, on his advisers, and on her administration as a whole. It should be very embarrassing for the Follett Government. The image of the Territory's TAB, unfortunately, has been set back 20 years. Other TABs have lost confidence in our agency, and a large slice of a $90m industry may be under threat.

What the Opposition will not accept is the blatant attempts by the Follett Government to shirk all responsibility for the VITAB affair. From the day an inquiry was announced by the Chief Minister, this Government has run for cover. They must have had a special on steak knives at the Canberra Theatre during the Pearce inquiry, Madam Speaker, because I saw hundreds of them sticking out of the backs of various people during the inquiry - of members of the ACTTAB board, of members of the department, of Ministers' staff. More finger pointing, as one journalist put it. If you had sat quietly during those hearings you would not have been able to hear what was being said for the sound of knives going into various backs. My staff and many journalists watched in fascination as senior bureaucrats from the Department of the Environment, Land and Planning, ACTTAB, the ACTTAB board as well as the Minister all tried their hand at knife throwing.

Mr De Domenico: And dumping on each other.

MRS CARNELL: And dumping on each other, as Mr De Domenico said. The question we need to ask is not "Who is to blame for the failure of the VITAB deal?" but "Who was responsible?". The Government claims that it was ACTTAB and that ACTTAB alone must carry the can. Madam Speaker, the Opposition believes that the Follett Government is largely responsible for what Professor Pearce has found. It can be clearly shown that it was Mr Berry and his Cabinet colleagues who created the environment in which a stuff-up of this magnitude was allowed to flourish unchecked. The Government decorporatised the TAB on the pretext of having more responsibility for its operation. It decorporatised the TAB on the pretext of having more say in who was appointed to manage its affairs.

Now the Chief Minister wants us to believe that her Government had no responsibility for ACTTAB's operations, and even less to do with the actions of the board members. You and your ALP faction wanted more responsibility for ACTTAB, Ms Follett. I see that she has left the chamber. Today I think the Follett Government has to accept what she and her Minister and her Cabinet debated for in this house. Ms Follett set the rules under which the TAB operated. Ms Follett, or possibly Mr Berry, decided who would administer the agency; but I am sure that Ms Follett has control over all these things, and Mr Berry convinced the Independents that this would achieve maximum benefit for the people of Canberra. Ms Follett's Government promised that ACTTAB would be more accountable to it, more under its control and better managed via decorporatisation. You will remember that in this house the Liberal Party argued quite definitely against this approach. Now the TAB has become a convenient scapegoat. The agency and its board deserve strong criticism for their actions in the negotiation of the contract with VITAB, but they are not alone.

Madam Speaker, the Pearce report has clearly vindicated many of our concerns. It confirms that ACTTAB entered into a contract about which it knew very little. It identifies deficiencies in the negotiations leading up to the agreement. Ms Follett has already read these, but I think it is important to state them again. The most serious of these deficiencies was that there was insufficient consideration of the likely impact on the return to the Government and the racing industry of entry into a contract with a privately owned TAB. We understand, if Mr Hawke can be believed in this situation, that it is the only privately owned TAB in the world.

Mr De Domenico: That might have been hyperbole as well, though.

MRS CARNELL: It could have been. There was inadequate consideration of the manner in which a privately owned TAB could be used by its proprietor. I think all those who have not read the report should read that bit with great interest. There was the failure to check the backgrounds of the directors of VITAB and the fact that the terms of the contract were weighted in VITAB's favour. How on earth could you get a more damning set of deficiencies in any contract? It is hard to think of any.

This agreement would probably never have made it to first base if the members of the ACTTAB board had had even a basic understanding of the TAB industry and the ramifications of a link with VITAB.

Mr De Domenico: But they were not picked on ability.

MRS CARNELL: They were not picked that way, Mr De Domenico. You are quite right. Professor Pearce has recommended that the board should have members who are expert in the operation of TABs. By implication, the board which was a party to the VITAB contract had no expertise.

Mr De Domenico: And was hand-picked by the former Minister.

MRS CARNELL: Yes, and whose fault was that? It has to be the Follett Government's fault. They put them there. The former Minister picked them himself. I understand that at that stage, too, Mr De Domenico pointed out to the Minister that the people involved possibly did not have the appropriate expertise.

The debate that ensued in this Assembly when the Follett Government moved to return ACTTAB to the status of a statutory authority provides a fascinating background. In May 1993 the then Sport Minister, Wayne Berry, told the Assembly:

You would know that under the present legislation the chief executive officer, the chair and the deputy chair are appointed by the board. That is just not good enough.

That is what Mr Berry said. He continued:

The legislation provides for me, or the responsible Minister, to appoint the chair and the deputy chair of the board and the chief executive officer, in consultation with the board, guaranteeing their accountability to the people of the ACT.

Mr De Domenico: Who said that?

MRS CARNELL: Mr Berry said that in May 1993. He went on to say:

I will also appoint members of the board, who will be required to have the appropriate qualifications and experience relating to the functions of the board. ... That is accountability.

Less than a month later Mr Berry told the Assembly, once again:

This legislation ... makes it very clear that it is a requirement for the Government to ensure that people with suitable qualifications are put in place to make sure that this board is managed properly.

What does Professor Pearce say? Certainly not that. It was Mr Berry who appointed the ACTTAB board on 2 July 1993. It was the same board that the same Government sacked last weekend, and sacked without having copies of the Pearce report. The board was described by Professor Pearce as having demonstrated "astonishing naivety"; as a board oversighting an agency whose actions, according to the report again, "left much to be desired". For Mr Lamont to dismiss the board ahead of the release of this report is proof that its members did not have the necessary skills to fulfil their tasks as members. Mr Lamont admitted that by going down the track he went down.

But can we really blame the board? After all, Professor Pearce said that its members acted in good faith. They just did not have the expertise to know what they were doing. No; responsibility must be sheeted home to the Follett Government. It begged this Assembly to give it the power to choose those board members, and the reason it used to sell that concept to the Independent members of this Assembly was accountability. Do you remember what Mr Berry said in this place last June? I quote:

The relevant portfolio Minister will be the Minister responsible -

I stress the word "responsible" -

for ACTTAB operations. Directors of the board will be appointed by the Minister, and the chair and the deputy chair of the board will also be appointed by the Minister. Currently the board appoints those positions. So they will be more accountable to the Government and to this Assembly.

I think the whole debate can be summed up in that paragraph. The Minister, with the support of Ms Follett, selected a board which lacked these qualifications. This Government chose some members on the basis of their political and union affiliations rather than their expertise in the TAB industry - that is not my comment; that is Professor Pearce's comment - and it put them in charge of a $90m operation.

Back in January 1993, in an editorial in the *Canberra Times*, this comment was made about the decision to put board appointments back in Mr Berry's hands:

One could, therefore, only speculate as to Mr Berry's real motives. As a corporation, appointments to the Board and the executive must be made on business merit. If it were a statutory authority Mr Berry would have a wider class of people to choose from - namely anyone.

That is exactly what he did. If we are going to stand here today and point a finger at the board of ACTTAB, then the person who allowed this situation to develop must shoulder most of the responsibility, and, of course, the Government from which he came is the final recipient of that responsibility.

In his recommendations Professor Pearce has also urged that guidelines be drawn up to clarify the relationship between a statutory authority, a department and the Minister. The report shows that there was little, if any, understanding between ACTTAB, the Department of the Environment, Land and Planning and the office of the Sport Minister as to who was responsible for various processes. Contrast this with Mr Berry's statement to the Assembly in December 1992 when he flagged the Government's intention to decorporatise ACTTAB. I quote:

... the current legislative framework limits the Government's ability to exercise a more positive role in ACTTAB's operations. For the Government to have more direct involvement and responsibility for ACTTAB's operations, the most appropriate structure is for ACTTAB to operate as a statutory authority.

I emphasise the phrase "more direct involvement and responsibility". On 8 January, this is what the then Minister said in a letter to the editor published in the *Canberra Times*. *(Extension of time granted)* I am quoting from a letter to the *Canberra Times* by Mr Berry. He said:

It -

that is the legislation -

will provide for greater accountability to Government and the ACT community in the decision making processes. There will be no change in the service to clients or the racing industry. The major change is that the Government and the Assembly ... will have a closer role in the management of the ACTTAB.

That was Mr Berry, writing to the editor and talking about a closer role in management. Finally, in May, when Mr Berry announced the Bill for decorporatisation, he said:

The current legislative framework for ACTTAB operations as a Territory owned corporation limits the Government's ability to exercise a more positive role in its operations.

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

Despite this clear, unequivocal statement of intent by the Government, not once were any guidelines or mechanisms put in place to ensure accountability or transparent decision making processes. There was no attempt by the Minister, by his senior adviser or by the department to institute any procedures consistent with their intention to have a more positive role in ACTTAB's operation. One must question why the Follett Government went ahead with the decorporatisation of the TAB. Was it nothing more than a commitment to a party platform on public ownership at whatever cost to sound management principles? On this issue alone the competency of the Minister would have to be questioned.

Madam Speaker, a Cabinet submission to the Follett Government reveals the real level of responsibility that this Government must take for ACTTAB's operations. These documents provide damning evidence that the Government wanted its hands on the levers, but did nothing to ensure that this accountability that they promised actually occurred. I seek leave to table these documents and to have them incorporated in *Hansard*.

Leave granted.

Documents incorporated at Appendix 1.

MRS CARNELL: I quote from this Cabinet submission:

The Board operates without adequate Government oversight of its operations. Given the importance of the racing industry, and the amount of revenue generated, the Government cannot accept the situation where the ACTTAB can act independently of its wishes.

That indicates, of course, that it cannot act independently of its wishes, taking into account that this Bill was passed. This quote alone demonstrates that, in the view of the Minister, a decorporatised TAB could not act without the blessings of the Government. The Cabinet documents further state:

... to re-establish the TAB as a Statutory Authority would:

. increase the level of Government oversight of TAB operations;

... ...

You wonder how many quotes there are that say exactly the same thing; yet witness after witness told Professor Pearce that they noticed no change in the relationship between ACTTAB, the department and the Minister's office throughout the VITAB affair after the decorporatisation.

It is disturbing, too, to note that the report finds that the former Minister was not well advised, either by his staff or by his department. Significant discrepancies exist between the evidence of Mr Berry's adviser and that of the then head of DELP, Mr Jeff Townsend. Either someone was not quite telling the truth or there was a massive breakdown in communications that should never have happened at the highest levels of ACT Government. The reflection the report casts on the performance of some senior departmental officers is less than favourable also, in my view. Professor Pearce has found that the Department of the Environment, Land and Planning paid less heed to the effect of the contract than was desirable. I quote his findings:

... the ACT did have an interest in the VITAB contract, namely its possible impact on government revenue and the subsidy for racing. This seems to have been given scant attention by the Department ...

He went on to note that the department should have put greater effort into understanding the possible outcomes of the contract and sought briefings from ACTTAB. As we all now know, it was the department that advised the Minister to give the final direction to ACTTAB to sign the contract with VITAB, yet it did this without making virtually any checks as to whether the proper processes had been followed. Indeed, the Pearce report states:

... applying the final check before a Minister takes action is what a public servant is employed to do. It was not done here and the Minister paid the price.

The Opposition believes that the department acted less than competently through this affair, as, of course, does Professor Pearce. Indeed, it was clear from the public hearings that the department and the Government generally engaged in a concerted campaign to dump on ACTTAB so as to absolve itself from responsibility.

Ministerial responsibility also flows through to the breakdown in communication which appears to have occurred between the Minister and his senior adviser. Professor Pearce states:

I also consider that the Minister's adviser, Ms Robinson, did not provide him with the standard of advice that could have been expected.

Madam Speaker, if the conduct of a Minister's personal staff is not the responsibility of the Minister himself, then Professor Pearce has effectively said to parliaments across Australia that ministerial responsibility counts for very little indeed. So, to quote one *Canberra Times* journalist, where has this orgy of finger-pointing taken us?

It has resulted in a situation where nobody in government wants to be responsible for the actions of a statutory authority that returns more than $5m to the ACT Government every year. It would appear that the Minister was not responsible, the department was not responsible, and the TAB board does not have the autonomy to act without ministerial approval. Yet we all remember how keen Mr Berry was to associate himself with the launch of the VITAB contract last year.

Madam Speaker, what we witnessed in the last two months was a government desperate to avoid responsibility for its actions. The sackings announced last weekend sent a clear message to Canberrans that the Follett Government will try to hang ACTTAB out to dry. The new Sport Minister has given no reason why these dismissals should have taken place prior to the release of the Pearce report. It was obviously part of a cold, calculated campaign to distance himself and his Government from the VITAB affair, and to stage-manage media and public reactions into believing that ACTTAB alone was responsible. ACTTAB cannot and must not be singled out for criticism, because the origin of the problems Professor Pearce has identified can be found in the actions of the Follett Government. Canberrans were told that decorporatisation would mean greater government responsibility. They were told that their Government would bring the agency back into the fold and protect it. Now the Government has thrown ACTTAB on the sacrificial altar rather than take the responsibility themselves.

In conclusion, the report notes that the environment for TABs in Australia has become more competitive, more aggressive and more off-shore orientated. For the ACT to be able to compete in this market it is going to need to be flexible, and it is going to need to be autonomous. All I can do is hope that the Government takes this on board and does not include the TAB under the Public Sector Management Bill. I want to close my remarks by reminding the Assembly of an answer by Mr Berry in this house on 2 March this year. He said:

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

The Follett Government approved this deal. Make no mistake, it will wear it too.

MS SZUTY (3.55): Madam Speaker, I wish to offer to the Assembly some thoughts about my impressions of the board of inquiry report into a contract entered into between ACTTAB and VITAB Ltd by Professor Dennis Pearce, which is known as the Pearce report. I would like to say at the outset that I continue to consider that the conduct of the inquiry and the motion of no confidence in the former Minister for Sport, Mr Berry, are two entirely different and separate issues. I said in the Assembly on 12 April 1994:

... we have two processes, which have been described by various members of this Assembly during the debate today. The first process, or outcome, is the inquiry under the Inquiries Act to be chaired by Professor Dennis Pearce ...

The second part of the process, or outcome, of all the discussions on the ACTTAB-VITAB contract is the motion of no confidence in Minister Berry that we are debating today.

I also note that Professor Dennis Pearce, in his opening remarks to the inquiry, said:

I think I should say that I do not intend to review the no confidence motion in relation to Mr Berry that was passed in the Legislative Assembly; that is a matter for the parliament. It is under the terms of reference necessary for me to deal with the question of the advice that was provided to the Minister and his involvement in the establishment of the agreement.

I do not intend to deal with matters such as whether the Minister misled the parliament because the parliament has already dealt with that issue. In short, the matters that I deal with must be relevant to the terms of reference.

The only further comment that I wish to make about the separation of the two issues, Madam Speaker, is to express my regret that Mr Humphries, a member of the Opposition in this Assembly, felt it necessary to place before Professor Pearce a submission relating to Mr Berry's responsibility for matters arising out of the ACTTAB-VITAB contract. Several of the clauses of Professor Pearce's terms of reference are relevant here. The Assembly would be aware that clause (a) of the terms of reference in part refers to "the advice provided to the Minister for Sport", and clause (c) of the terms of reference refers to "the involvement of the Minister for Sport, the staff and board of ACTTAB and any other official in relation to the agreement between ACTTAB and VITAB". Mr Humphries's submission to the inquiry may well have had relevance to these terms of reference.

Madam Speaker, I have been talking about the importance of considering the no-confidence motion and the inquiry as two separate issues; yet, as Professor Pearce states in his report - I believe that it is paragraph 200 of the report:

Mr Humphries then invited me to find that Mr Berry had indeed deliberately misled the Legislative Assembly.

He further states:

I do not propose to enter upon this issue. It would constitute a reopening of the matters dealt with in the no-confidence debate that led to Mr Berry's resignation. This could well be thought to constitute a breach of parliamentary privilege. In any case, as I said at the outset of this Report, I do not consider that my Terms of Reference embrace that topic.

Madam Speaker, I consider Mr Humphries's actions regrettable in pursuing Mr Berry's actions in the way that he did. Nevertheless, as Professor Pearce states, it was appropriate for him to comment on Mr Berry's responsibility or accountability for what did arise in this matter according to the terms of reference for the inquiry that I referred to earlier.

Madam Speaker, I wish to commend Professor Pearce for the way in which he has constructed his report. While the contents of the report present a distressing narrative about the sequence of events which led to the signing of the ACTTAB-VITAB agreement, they explain the sequence of events very well, which enables readers of the report to understand it very well indeed. I will provide for members of this Assembly some commentary on the sequence of events, as I see them, before I turn to the report's findings and conclusions. I was pleased, Madam Speaker, that Professor Pearce felt it unnecessary to summon people to attend the board of inquiry proceedings, feeling, as he did, that all the information he needed to arrive at his findings and conclusions was forthcoming. I was also encouraged that goodwill towards the inquiry was evidenced by the number of people who provided submissions and who appeared in person at both public and private hearings.

I was also interested in Professor Pearce's discussion of the totalisator industry in Australia and the initial rationale for the push for legalised off-course TABs. I noted that the Chief Minister also referred to this background information in her remarks. I quote from paragraph 14 of the report:

The push for legalised off-course TABs was supported particularly by the racing industry and one group in South Australia, the South Australian Off Course Totalisator Committee, set out their reasons for supporting the introduction of a TAB in that State:

Our purpose in seeking a legalised off course totalisator is not to encourage betting, but to divert some at least of the existing illegal traffic into channels where it can be controlled; and from which profits can be used for the good of the community and the racing industry.

This statement provides a useful setting of the scene for the further discussion which follows in Professor Pearce's report.

Madam Speaker, I will now discuss some of the unfortunate consequences of the signing of the ACTTAB-VITAB contract. A lengthy section of the report concerns the entry into the agreement with VITAB. Significantly, on 1 July 1993 a confidentiality agreement was faxed by Mr Kolomanski of VITAB to Mr Neck, the chief executive officer of ACTTAB, for execution. Again, the Chief Minister referred to this particular confidentiality agreement in her remarks. Mr Neck discussed this agreement with Mr Williams as to whether it should be signed. Mr Williams was the chair of the ACTTAB board.

Mr Williams agreed, and the confidentiality agreement was executed and returned by fax to VITAB. No legal advice was sought as to the wisdom of signing the agreement or as to its content. The effect of signing this agreement was to limit markedly the ability of ACTTAB to make any inquiries about Mr McMahon and Mr Kolomanski, or the proposal that was under discussion. There is no question, Madam Speaker, that the haste with which this agreement was signed was regrettable.

A lengthy discussion in this section of the report also relates to the probity checks that Mr Berry, the former Minister for Sport, requested on 23 July 1993, and which were ultimately not looked into further until early 1994. It will suffice for me to say that the checks should have been made, and that there appeared to be general confusion about what actually constituted probity checks.

The next section of the report deals with ACTTAB's further involvement in the agreement. It is here that VicTAB's agreement to the ACTTAB-VITAB contract is discussed by Professor Pearce. Here I am quoting from page 15 of my confidential copy of the report. The page number is probably not the same as in the report that has been presented to this Assembly today.

Mr Moore: The paragraph numbers are the same.

MS SZUTY: Thank you, Mr Moore. It is at the bottom of paragraph 63, and paragraph 64. It reads:

No formal statement in writing to that effect was obtained.

This is about the link of ACTTAB with VicTAB through the VITAB contract. The report continues:

Nonetheless, the confidence of both ACTTAB and VITAB in their understanding of the position is evidenced by their concluding of the contract. Access was the crucial element in the bargain and without it no contract would have resulted.

64. It is important, however, to put this in context. First, a formal amendment of the agreement between ACTTAB and VicTAB would have been at least desirable and perhaps legally essential to qualify the ability of VicTAB to terminate the agreement on 6 months notice and without giving reasons. Second, VITAB were setting up in opposition to VicTAB's Vanuatu outlet. One would have thought that this might have been expected to qualify VicTAB's enthusiasm for ACTTAB's joint venture with VITAB and led to ACTTAB and VITAB taking great care to be sure of VicTAB's position.

Again it will suffice for me to say here that greater care should have been taken to secure VicTAB's agreement to the ACTTAB-VITAB contract. The report then sets out departmental further involvement in the agreement, and is followed by a section called "After the Agreement". It is significant that VITAB commenced operations in Vanuatu

on 18 January 1994, and it was on 21 January 1994 that Mr Hooke, the chief executive officer of VicTAB, first contacted Mr Neck and indicated that his board intended to terminate the link between ACTTAB and VicTAB.

Subsequent sections of the report deal with "Who is VITAB?" and outline details of the backgrounds of the persons involved. Professor Pearce reached extensive conclusions about the checking of VITAB directors and shareholders. Five pages in all in the report cover that particular issue. He comes to two findings on page 30 of the report - two findings that the Chief Minister quoted in her remarks. They are:

. that there was a failure to check the backgrounds of the persons who were proposed to be the directors of VITAB;

. the responsibility for that failure must be assumed by ACTTAB.

"ACTTAB as a statutory authority" is discussed in the section that follows, where Professor Pearce outlines what to him seems like a systemic problem. It is taken up in Professor Pearce's recommendations and conclusions at the end of the report. He said:

What is revealed here is a systemic problem. There are matters that a department will have to perform and others that can be left to the statutory authority. But it must be clear to both parties what those respective functions are. It seems to me that when an authority is established, there should be guidelines put in place that indicate where the respective responsibilities lie. Where a matter of a significant nature such as the contract in this case arises, the department and the authority need to settle at the outset what functions they are to perform. It is not wise for the Minister to be used as some sort of liaison officer or conduit as was done in this case. If the parties here had spoken to each other early in the piece, many of the subsequent difficulties could have been avoided.

Inducements are discussed in Professor Pearce's report in a number of instances. He said:

Assurances were given by VITAB that it was not their intention to attract Australian punters but they were going to concentrate on the Asian and Pacific markets. When this question was raised in the Legislative Assembly VITAB wrote to ACTTAB reasserting that it had not and did not intend to try to induce Australian punters to switch their allegiance to VITAB. This letter is recognisably unenforceable in legal terms and it led to questions being asked in the Legislative Assembly whether consideration had been given to including a no inducements clause in the contract. It would appear that if there had been consideration given to the inclusion of such a clause it was quickly forgotten.

He also said:

What was not adverted to by any of these parties was that a private TAB, not being subject to the obligations to provide revenue to a government or a racing industry, will always be able to offer better incentives to punters than a Government TAB. This fact alone should have caused ACTTAB to pause before entering into the VITAB contract. This matter is pursued further below in the context of the merits of the VITAB agreement.

That is a point that the Leader of the Opposition has made many times in the Assembly in our discussions of this particular issue. The section I have just described is followed by an extensive section of the report which is headed "Merits of VITAB Agreement". It deals with a number of issues - the subject matter of the agreement, the parties with whom contracting was occurring, price, obligations assumed, and outcomes. Professor Pearce speaks eloquently in the report about the significance of the ACTTAB link with the Victorian superpool, and I would like to spend some time on this particular issue. He said:

Continuing access to the VicTAB pool or to a pool of an equivalent size was the very nub of the agreement with VITAB. VITAB would not have entered into the contract if access could not have been guaranteed.

I referred to the significance of this link in my speech to the Assembly on 12 April. I would like to remind members of a couple of things that I said on that occasion. I said to the Assembly:

... I have also been back very thoroughly over the relevant uncorrected proof transcript of the Estimates Committee hearings of last year, in which both the Minister and Mr Neck, the chief executive officer of ACTTAB, talked quite extensively about the importance of ACTTAB being linked to the Victorian TAB superpool. It was the impression of members who attended that committee hearing that that link was of considerable importance to the ACT and certainly that the ACT stood to gain a significant standing in terms of the return the ACT could secure in the future by being linked to the Victorian superpool.

I also said:

Part of the context of the VITAB-ACTTAB contract is most definitely the contract between ACTTAB and VicTAB. To me, the VITAB-ACTTAB contract took place because of ACTTAB's involvement with the Victorian TAB superpool. I do not think there is any getting away from that.

At this point, Madam Speaker, it is appropriate for me to comment on my own submission to the Pearce inquiry and Professor Pearce's response, which is included in this section of the report. It was a very brief submission and I would like to read it into the record. The letter is addressed to Tony White, Secretary to the Board of Inquiry, and says:

Dear Tony,

I welcome the opportunity to make this brief submission to the Inquiry into the ACTTAB-VITAB Agreement. I believe that most of the issues canvassed to date will be addressed by other parties and it would be pointless for me to cover the same ground.

An issue that I believe may not be covered by others relates to the computer infrastructure needed to support the ACTTAB-VITAB contract.

Minister Berry has stated in the Assembly that the key item brought to the table by ACTTAB in this agreement is its computing capability. Also I have been informed in briefings that ACTTAB anticipated an increase in turnover (in dollar terms) of at least 50 per cent from the VITAB deal.

Given these points I believe that the costs involved in providing the computing infrastructure to support VITAB need to be investigated to determine if indeed the projected dollar benefits to the ACT were as large as claimed.

(Extension of time granted) My letter continues:

In particular I believe that, given the anticipated 50 per cent increase in turnover, the question of the projected costs, and who was to pay them, in the following areas should be investigated:

. The necessary expansion of at least 50 per cent in the ACTTAB computer equipment, or its replacement by a larger system with at least 50 per cent more capacity. This includes the additional equipment needed to support normal redundant operation as well as any expansion in equipment needed to provide contractual levels of fallback performance in the event of main system failure;

. any modifications to the computer software needed to support VITAB transactions and/or the increased transaction volume;

. the provision of primary and secondary communication links from the ACT to Vanuatu; and

. the provision of the local betting and other terminal equipment and communication links needed to support betting in Vanuatu.

In investigating these matters I am sure that any consequent issues, should they arise, will also be considered by the inquiry.

If you wish to clarify any of these issues please feel free to contact me.

Professor Pearce did address these matters briefly in his report and said:

ACTTAB responded to this suggestion by indicating there was spare capacity on its present computer and that the new systems it would have to adopt were more than adequately covered by the charge being made to VITAB. ACTTAB said that replacement of equipment was a matter that it had in hand but that the process would have been undertaken regardless of the entry into the VITAB contract. Indeed the VITAB contract provided extra funds to enable the updating program to take place.

Professor Pearce concludes this section of the report with a discussion about outcomes and the merits of the contract in which six points were made. I think that the Chief Minister has adequately addressed those in her remarks. I will merely draw them to members' attention. They are listed at paragraph 177 of Professor Pearce's report.

Madam Speaker, Professor Pearce's report deals effectively with the issues that I identified in my speech to the Assembly on 12 April and on which I believed further clarification was needed to establish exactly what occurred. These issues included whether ACTTAB was in competition with other Australian TABs for the ACTTAB-VITAB contract, the bona fides of the directors and shareholders of VITAB, and the question of inducements and whether they would be more or less available under the provisions of the ACTTAB-VITAB contract.

I would now like to turn to consideration of the ACTTAB-VicTAB contract, noting that many of the documents and papers made available to Professor Pearce will not be made available to the Chief Minister, to members of this Assembly, or to the public. However, it is significant to note Professor Pearce's comments in relation to the matter. The first comment that he makes that I would like to draw attention to is paragraph 182, which says:

It is noteworthy in relation to further developments to point to the request in the letter of 12 August for VicTAB to provide "urgent written agreement" as to the effect of the ACTTAB-VITAB contract.

Further, at paragraph 184:

Mr Neck did not appear to focus his attention on the fact that the contract between ACTTAB and VicTAB as it stood allowed either party to determine the link between the two pools on 6 months notice.

Again, in paragraph 189 Professor Pearce says:

However, it has to be noted that the first letter to Mr Walker from ACTTAB asked for written agreement to the proposed arrangements.

In paragraph 191 he says:

Mr Walker's letter is not an objection to the entry into the contract. But it does raise some concerns and it invites consideration of an amendment of the agreement once those concerns are dealt with.

Further, at paragraph 192 he says:

At no time did ACTTAB seek legal advice on the effect of the VITAB agreement on their relationship with VicTAB. One would have thought that a legal adviser would have pointed out that if indeed any oral assurances were given by Mr Walker they did not necessarily impose any limitations on the discretionary cancellation power to be found in the agreement.

Professor Pearce concludes this section with three very substantive paragraphs which again I will draw to members' attention. They are paragraphs 193, 194 and 195. They are a fairly damning indictment of what happened over the ACTTAB-VITAB contract, and I think they are key paragraphs of Professor Pearce's report.

Madam Speaker, Professor Pearce draws nine conclusions in relation to the board of inquiry report, conclusions which the Chief Minister has already mentioned. When the Chief Minister issued a copy of the report to me in confidence I read the conclusions at the time and indicated that even at that stage I was not surprised as to their nature. Madam Speaker, the decision by the Chief Minister to hold an inquiry into the ACTTAB-VITAB contract under the Inquiries Act was a decision that I supported. In fact, I drew up some draft terms of reference for that purpose for the Chief Minister to consider, as I mentioned earlier.

In conclusion, Madam Speaker, I think largely the report speaks for itself, but I am pleased with the work that Professor Pearce has done in establishing the facts of what occurred and in clarifying the issues, making findings and arriving at conclusions. I believe, Madam Speaker, that it remains for the Government to address the findings and the conclusions of the report - I understand that that will be happening later this afternoon - and to ensure that the circumstances never recur in the ACT. I believe that that is what all members of this Assembly are looking for and that, in the future, we will not be subject to such an unfortunate set of circumstances which actually put the finances of the Territory at risk.

MR DE DOMENICO (4.16): Madam Speaker, I will limit my remarks to two areas. The first thing I would like to talk about is the unfortunate way in which the Government has decided to act in getting rid of the ACTTAB board and its chief executive prior to publicly releasing a copy of the VITAB report. The concept of natural justice is spoken about in this place and, whilst not disagreeing with the fact that something had to be done to the board, and that something had to be done or said, or both, to the chief executive of the board, perhaps the timing and the manner in which it was done leaves a lot to be desired. Having said that, I also want to put on the record that I think that the new Minister, Mr Lamont, had a very difficult job to do. He inherited, to use the words being used by a lot of journalists, the greatest stuff-up of all time. Why did he inherit that? I will also talk about what was said in the body of the report put down by Professor Pearce. Notwithstanding the fact that some members on this side of the house have had a very limited opportunity of examining what was said in that report, it needs addressing.

I will start my remarks by referring to page 2 of the Chief Minister's remarks. At the bottom of the page she says:

Madam Speaker, these conclusions do not surprise me. I had always expected that a dispassionate and apolitical examination of the VITAB issue would find that no fault lay with the Minister.

I think that these words need reflection. I am going to attempt to be passionate and political. I think that, at the very beginning of this affair, had the Labor Government not been passionate and completely political we would not be in the situation we find ourselves in today. Let me expand on those remarks. Mr Berry last year - we will never forget this - came into this place and said, "Listen, we are going to decorporatise ACTTAB". Members of the Opposition and people outside this place said time and time again, "Minister, if it ain't broke don't fix it".

The first thing that the Minister did, in his usual way, was to call it a political stunt. He said that the Liberals were being ideological and all that sort of rubbish. Let us see what happened before ACTTAB was decorporatised. What Professor Pearce had to say bears reflecting on. We all know, Madam Speaker, that before the decorporatisation of ACTTAB it had two shareholders - namely, the Chief Minister and the Deputy Chief Minister at the time, Mr Berry - and was a Territory owned corporation. Three of the members of the board were very senior ACT Government bureaucrats. That was prior to its being decorporatised.

If there is one thing that this report makes clear - at the very least the Government can bank on this - it is that there has been a complete lack of communication between the bureaucracy, the ACTTAB board and the Minister. Had the Government left ACTTAB as a Territory owned corporation, this would not have happened, because on that board there would have been three very senior bureaucrats and two members of Cabinet. If you read what Professor Pearce says, he intimates, without actually saying so, that that was not a bad sort of a structure because you get the best of all worlds - two Government Ministers, so Cabinet can be informed all the time as to what is going on; three senior bureaucrats, so that the public service can be informed as to what is going on; and other members of the board that the Government sees fit to appoint.

The former Minister came into this place in May last year and said that as from 1 July 1993 ACTTAB would be a statutory authority. Why would it become a statutory authority? Because he, the Minister, could pick the chairman of the board and the deputy chairman of the board, consult with those two people and the chief executive, and then appoint other members of the board as well. He referred to things like having control of the whole thing and having proper accountability. The Minister, notwithstanding what was said in this place by members of the Opposition, wanted complete control of ACTTAB. After convincing the Independents that this would result in greater accountability, that is what the Minister got. That is what he wanted; that is what he got. So, for anyone to come into this place today and say, "It is all the fault of the ACTTAB board, and no-one else", is absolute nonsense because the facts do not bear that out.

There are a lot of things in the body of Professor Pearce's report. It is very easy to read the front and the recommendations at the end, as you would tend to read a novel when you want to fall asleep, without looking at what is in the body of the report. Let me now refer to the issue of probity. We have a situation where Mr Berry and Ms Robinson said to Professor Pearce that on 23 July, or round about that time - - -

Mr Berry: This little grub always names people who cannot defend themselves.

Ms Follett: Leave the staff out of it, Tony. It is disgusting.

MR DE DOMENICO: I know that this hurts; but it needs bearing in mind because we are talking about what the report says, Chief Minister. The report says that on 23 July, according to Mr Berry's evidence and according to Ms Robinson's evidence, Mr Berry told Mr Townsend that he, Mr Berry, expected probity checks to take place - and quite rightly. That is what the Minister should have said and, if we are to believe the Minister and Ms Robinson, that is what the Minister, in fact, did say. Mr Townsend, on the other hand, says that this is not the case. It was his understanding that the Minister did not say that. Any reasonable person can then conclude that either Mr Berry and Ms Robinson are wrong or Mr Townsend is wrong.

Mr Berry: What did Professor Pearce say? That is the important thing.

MR DE DOMENICO: Mr Berry, you ask the question, and I accept your interjection. Professor Pearce preferred to believe Mr Townsend. That is the answer to your question. That being the case, it means that Mr Berry did not ask for a full probity check. If that is the case, where does the responsibility lie? With Mr Berry; not just with the ACTTAB board, but with Mr Berry. That is point No. 1.

Ms Follett: That is not what the report says. Read the report.

MR DE DOMENICO: I am reading the report. I am going to quote from the report, too, because there was a lot said about certain individuals from time to time.

Mr Berry: You will name them all and blacken them all again.

MR DE DOMENICO: Mr Berry once again interjects. I am pleased that he interjects this time as well. Mr Berry says that I am going to blacken people's names. I do not need to do that, Mr Berry. Read what Professor Pearce says. There was a gentleman named Mr Peter Bartholomew. Some people at this public inquiry said that Mr Bartholomew was either a chauffeur or a bodyguard. We had people running around, not being sure whether he was someone to do with marketing. Somebody else said that he was a chauffeur. Somebody else said that he was a bodyguard. Mr Hawke, according to the Pearce report, gave Mr Bartholomew a glowing report. I quote from paragraph 98 of the Pearce report, where Professor Pearce says that Mr Hawke said in camera:

I have found them honourable and decent and competent men with whom to deal ... as distinct from some of these loose lipped politicians around the place who want to cast aspersions at least on Mr Bartholomew, all I can say is I have found him an honourable, decent, intelligent and competent man.

The question to be asked is: Who is Mr Bartholomew, whom Mr Hawke finds to be such a competent and intelligent man? Let us see what Professor Pearce has to say about that. In paragraph 86 Professor Pearce says:

VITAB found its genesis in discussions between Mr Peter Bartholomew, Mr Hawke and Mr Kolomanski.

We know that Mr Peter Bartholomew has been involved in the setting up of VITAB since day one. Again, let us see what Professor Pearce has to say. In paragraph 97, referring again to Mr Bartholomew, he said:

Mr Bartholomew did, however, approach the Queensland TAB on behalf of VITAB when the possibility of a link between VITAB and Queensland was under consideration. Mr Kolomanski indicated that at one time it was intended that Mr Bartholomew might have a role in marketing for GMI and there was also a written indication that he would become a shareholder and director of that company if approved by ACTTAB. This was subsequently withdrawn about the time questions about Mr Bartholomew were raised by Members of the Opposition.

Here we have a situation where Mr Bartholomew was intended to be a director of VITAB; they were going to ask ACTTAB to approve Mr Bartholomew, and no probity checks were done. Yes, Mr Hawke gave Mr Bartholomew a glowing reference. The fact that Mr Bartholomew and Mr Hawke are business partners in multimillion dollar deals has nothing to do with it! Of course, we can believe Mr Hawke! Professor Pearce said in paragraph 77 of the report that Mr Hawke came to town and told everybody that we competed against the rest of the country to get this deal. Mr Hawke said that publicly. Professor Pearce says:

Mr Hawke's comments could be considered inaccurate ...

Of course they were. They were not accurate; they were totally misleading. Professor Pearce considered them inaccurate and then said:

... but at that sort of gathering a little flattering hyperbole relating to ACTTAB's position was understandable.

That means to me that it is okay for a former Prime Minister to come to town and make any misleading statement he wants to everybody just because he happens to be a former Prime Minister; that we can accept that, notwithstanding the fact that he has misled the people of the ACT, misled the ACTTAB board and misled this Government. No, this Government came in hook, line and sinker. Let us get back to Mr Bartholomew.

Ms Follett: Tell us about the Chung Corporation.

MR DE DOMENICO: I am glad that the Chief Minister interrupts. "Tell us about the Chung Corporation", says the Chief Minister. As soon as the Victorian Government got to know about the Chung Corporation it cut away the deal with Vanuatu and Mr Chung.

Ms Follett: That is because they were crooks.

MR DE DOMENICO: Right; that is because they were crooks. That is what the Chief Minister said. Chief Minister, Mr Bartholomew was a crook as well.

Ms Follett: Not so. Read the report.

MR DE DOMENICO: Not so? Let me read what the Victorian Police Minister had to say.

Mr Berry: I raise a point of order, Madam Speaker. Here we go again; blackening everybody that one can lay their tongue to. I would ask you to caution Mr De Domenico. None of these people are going to be able to defend themselves. Just go out onto the tarmac and do it.

MADAM SPEAKER: Mr Berry, privilege allows Mr De Domenico to continue, although presumably some people will exercise their citizen's right of reply. Please continue, Mr De Domenico.

MR DE DOMENICO: I note your point. Thank you, Madam Speaker. I will quote from the Victorian *Hansard*, Madam Speaker, because the comment was made by the Chief Minister. I will answer that interjection as well. Mr Reynolds said:

One of the people connected with VITAB, Peter Bartholomew, was named in the Costigan royal commission -

that is public knowledge -

for involvement in the illegal side of gambling on horse racing. Mr Bartholomew and another director of VITAB have an association with a Mr Alan Tripp. The royal commission report has a whole chapter on the illegal gambling activities of Mr Tripp, and his brother-in-law, Peter Bartholomew, who is also named.

We go a bit further, Madam Speaker, because in *Hansard* of the same day the Victorian Police Minister said:

The advice I provided on Peter James Bartholomew was not totally inclusive. The police have given me further information following my request. Additional charges were laid, about which I had not advised the racing minister. They included the fact that Mr Bartholomew was convicted in the Melbourne Magistrates Court on 31 May 1982 for using premises for betting. He was fined $2500 and, in default, six weeks gaol. He was also charged with securing premises to delay police, interfering with Telecom installations and attaching apparatus to Telecom installations. He was sentenced to five days imprisonment for each of those charges. On 8 February 1982 he was charged with assisting in the conduct of a place used for betting and placed on a $200 good behaviour bond.

Madam Speaker, I read that into *Hansard* for one reason and one reason only. Here is a man who was going to be placed as a director of a company that the ACT Government had signed a contract with and who was removed from that company register only after questions were asked by the Opposition. Had the Opposition not asked those questions, Mr Bartholomew's name would have appeared as a director of VITAB. There is no denying that. Noting the fact that the only checks that were done were started on 23 February 1994, we would not have known anything about this sort of situation. That is all said quite clearly in Professor Pearce's report as well.

Madam Speaker, there is no doubt that this was not a good deal for ACTTAB and the ACT community. The important thing to say, and to say over and over again, is that it was the Government's responsibility to make sure that it was a good deal.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

INQUIRY INTO CONTRACT BETWEEN ACTTAB AND VITAB LTD
Report and Government Response

Debate resumed.

MR DE DOMENICO: Madam Speaker, none of us can stand here and completely lay the blame at the feet of the ACTTAB board and its chief executive because, as I have said before, it was the former Minister, Mr Berry, who appointed the chairman of the board; it was the former Minister, Mr Berry, who appointed the deputy chairman of the board; and it was the former Minister, Mr Berry, who took complete control of this board and this TAB's operations. I said at the beginning of my remarks that I would be passionate and political because that is what it is all about. It is all about the politics of the situation.

Mr Berry had in place a quite good board, a quite good structure. *(Extension of time granted)* Thank you, members. Mr Berry, of his volition, for his own reasons, came into this place and wanted more control. This place, for its own reasons, gave him that control. There is no denying that. Mr Berry then proceeded to appoint certain individuals and this Opposition publicly expressed concern about it. Mr Berry then, in his usual way, called it all a political stunt. Not one year later, Mr Berry's successor, Mr Lamont, in a moment of fulminating pique over the long weekend, sacked the very people in whom Mr Berry had so much confidence. Who were some of these people? We said that if the Minister continues to appoint people because of their political leanings and not because of their expertise you are going to get into trouble eventually, and that is what happened in this situation.

There is one thing I need to say, Madam Speaker, in my concluding remarks. If the names of any of these people found to be incompetent by both Professor Pearce and Mr Lamont, the new Minister, appear on any other ACT board, committee, advisory council or anything else, this Government had better make sure that it expunges them. In order to be very fair, that is what has to happen.

The Government also has to have a second good look at the Pearce report because it was not only the ACTTAB board and its chief executive who were blamed for incompetence. As I said before, if Mr Berry and Ms Robinson are to be believed about having told very senior bureaucrats to undertake probity checks, the Government needs to look at that as well. If Mr Townsend is to be believed, then the advice of Ms Robinson and Mr Berry to Professor Pearce was not correct. One or the other must be right. Professor Pearce also expressed concern about why nobody in the bureaucracy, either in DELP or anywhere else, had the temerity to say, "Stop there; let us have a closer look at this contract". We all know, Madam Speaker, that this contract allows VITAB an out but does not allow the ACT an out. If that is good law, we should not be here talking about it. We all know that it allows VITAB an out, but allows the ACT Government no way out. It is not a good deal, but no-one saw fit to have a look at that.

For all those reasons, Madam Speaker, this Government cannot sit back on its laurels now and expect us on this side of the house to believe that, just because the new Minister, over a weekend, has sacked three or four people and appointed four others, everything is hunky-dory. I look forward to all of Professor Pearce's recommendations being undertaken by this Government. I have to say one thing, and I will say it over and over again: This Opposition, and I dare say the Independents also, will make sure that proper accountability happens in this place, notwithstanding what portfolio responsibility we are looking at. It is essential that members of this place have proper accountability. When Ministers come into this place and try to convince people that by changing Acts of parliament they are giving us in this place more accountability, let it be on their heads to prove that that is correct. No, it is the Government that needs the responsibility placed upon it for what has happened here with VITAB. It has not been a political stunt. It has never been a political stunt. The ACT Opposition have done their homework. It is a pity that the Government did not do theirs.

MR STEVENSON (4.36): Madam Speaker, I had not seen the report prior to today, so I will not speak at any length. There are three points that are worthwhile making. First, was the arrangement sound; secondly, who was responsible; and, thirdly, did Mr Berry mislead the Assembly? First, was the deal sound? Was it a good deal to get involved in? I do not think anybody would maintain that it was. It has been fully acknowledged that it was not a good deal, for any number of reasons. Thirdly, did Mr Berry mislead the house? It should be acknowledged - - -

Mr Connolly: I take a point of order, Madam Speaker. This really is canvassing a previous resolution in this house.

MADAM SPEAKER: That is correct. It is quite beyond Professor Pearce's report, Mr Stevenson. Would you talk about the report.

MR STEVENSON: Madam Speaker, the report mentions that point. We heard the Chief Minister say:

I had always expected that a dispassionate and apolitical examination of the VITAB issue would find that no fault lay with the Minister.

MADAM SPEAKER: Yes, but the Assembly decided that Mr Berry did mislead the house. Whether he did or did not is not open to question again. Would you talk about the substance of the report.

MR STEVENSON: I presume that, if anybody in the Assembly says that Mr Berry did not, that would be out of order?

Mr De Domenico: That is right, because the Assembly said that he did.

MR STEVENSON: Fine. I will make the point - - -

MADAM SPEAKER: Mr Stevenson, just go on with your speech.

MR STEVENSON: I think it is a relevant point to make, and one should not get impatient with my making it. Who was responsible? The point that Mr De Domenico made, that Mr Berry appointed the board, is highly relevant. When I get a chance to read the report, that is the particular issue that I will look at. I feel that the other two points have been answered.

The Liberal members and their staff, who must have spent thousands of hours working on this, deserve to be commended by everyone in this Assembly. Were it not for them, this issue would not have been raised. We have had an acknowledgment by the Assembly, and it cannot be questioned, that Mr Berry did mislead the house. Secondly, with the sacking of the board, and the inquiry report, the deal should not have been entered into. Things were not done correctly. As we heard earlier, people in the community who tried to get something done were not received when they tried to take the matter up with the Labor Party. Who would say that the Liberal Party and their staff, and these other people, should not be commended?

MR MOORE (4.39): Mr Stevenson presumes that he will get a second chance to speak on this matter. That will be interesting. Madam Speaker, good faith has been spoken of throughout this debate, and Professor Pearce said at paragraph 206 of his report:

Mr Berry, his Departmental officers, ACTTAB officials and the various advisers to these parties acted in good faith ...

Good faith is not what we are talking about. What we are talking about, more than anything, is competence and incompetence. That is the issue that was dealt with primarily by Professor Pearce.

I think that the first positive aspect that needs to be dealt with here is the Chief Minister's responsibility in setting up this inquiry. Setting up the inquiry was an appropriate, responsible and competent act on her part, and as a result of that act we are today debating the issues that arise from the inquiry. It seems to me, Madam Speaker, that, if everybody acted in good faith, we need to look at how that has an impact on both the board and Mr Berry. Mr Berry has acted in good faith and the board has acted in good faith, but the board has been sacked and the Chief Minister says that Mr Berry has been cleared by all the evidence given during the Pearce inquiry. You cannot have it both ways. Madam Speaker, as did Ms Szuty, I want to distinguish between the issue of misleading the Assembly and the issue dealt with by the Pearce inquiry.

Mr Berry: Squirm as you may.

MR MOORE: The issue of misleading has been dealt with and does not need to be reiterated here. Mr Berry clearly did mislead the Assembly and that vote has been taken.

Mr Berry: You are squirming, Michael.

MR MOORE: In terms of competence, the question of the appointment of the board goes directly to Mr Berry. Madam Speaker, there is no squirming. One of the first issues taken up was the probity checks of VITAB directors and shareholders.

Professor Pearce points out that the chair of ACTTAB went so far as to suggest that checking should follow the same form as for the casino. He then went on to describe what background checks are made under the Casino Control Act. Even ACTTAB's own requirements are set out in paragraph 103. A quite detailed set of checks is set out. He concludes paragraph 111 on this issue by saying:

Even the local TAB agent is subjected to greater scrutiny.

Incompetence is the issue I want to deal with today, and one of the greatest acts of incompetence was this failure to scrutinise where it should have occurred. We see a whole series of reasons as to why that was the case. Mr Neck said that the association with the former Prime Minister was part of the reason why those checks were not carried out well enough. That issue is associated with the suggestion of a difference of opinion between Ms Robinson, Mr Berry's adviser, and Mr Townsend. I find Professor Pearce's conclusion very interesting. He states in paragraph 106:

... I accept Mr Townsend's view of the matter.

That goes, I think, to the nub of a series of issues where there seems to have been some difference between Mr Townsend and Ms Robinson. Madam Speaker, I have dealt with Ms Robinson now for the best part of five years and I must say that there has never been a single occasion on which I have had to doubt her probity on any issue. Whilst Professor Pearce, not having had that experience, may draw that conclusion, I wonder whether I would have drawn the same conclusion. I might also add, Madam Speaker, that many of us recognise that our staff and advisers have an extraordinarily difficult job to do and have an extraordinary amount of information coming across their desks. One cannot help wondering how much more difficult that is for an adviser to a Minister.

I would like now to draw attention to paragraph 113, Madam Speaker, to see what we can learn from this exercise. Apart from the political point scoring, which I am sure the Liberals will continue, the critical thing is to see what we can learn from Professor Pearce's report and what we can apply not only to the TAB in the ACT but right across departments and statutory authorities. He said:

It may be thought strange that ACTTAB is running at a loss when it has a strong reputation as an efficient organisation. The reason for this is that it is the only TAB in Australia that is required to pay a percentage of its turnover to the Government and the racing industry as distinct from a proportion of its profit. It may be that the percentage has been set at too high a level for ACTTAB to be expected realistically to be able to function at a profit without having to contemplate entering into contracts such as that proposed by VITAB.

That is an important issue for the Minister to deal with. Is that an appropriate way for ACTTAB to have to operate compared to the other TABs?

At the end of paragraph 116 Professor Pearce said this:

I find:

. that there was a failure to check the backgrounds of the persons who were proposed ...

. the responsibility for that failure must be assumed by ACTTAB.

So that responsibility is fairly and squarely put on the board of ACTTAB, and that is the board, as the Liberals quite rightly pointed out, that was nominated by the Minister. To that extent, at least, the Minister has to bear that particular responsibility.

It is interesting that at paragraph 119 Professor Pearce deals with ACTTAB as a statutory authority and talks about the relationship of a statutory authority with a government department. I think there is good reason for each of us to look at the way we set up statutory authorities. The accountability of statutory authorities to the parliament and to the Government is an issue that will continue to arise. Even more critical than that, Madam Speaker, is what Professor Pearce says at the beginning of paragraph 125, namely:

What is revealed here is a systemic problem.

He refers to matters that a department has to do, and the relationship between a department and statutory authorities. He describes it as "a systemic problem". When that is the case, Madam Speaker, it is incumbent upon the Government to ensure that an identified systemic problem is resolved. He goes on to say:

It is not wise for the Minister to be used as some sort of liaison officer or conduit as was done in this case.

He refers to how that happened. Madam Speaker, another issue arises from paragraph 126, where Professor Pearce says:

What I do think my Inquiry reveals is that the Board should contain persons who have sufficient familiarity with the TAB industry to have foreseen some of the problems to which the VITAB agreement was likely to give rise.

That is the issue that the Liberals have raised about the responsibility of the Minister in appointing appropriate members - appropriate members, not hacks - to the board. That is why, I believe, the new Minister found it incumbent upon him to sack the old board and to ensure that he has an appropriate new board. Professor Pearce also deals with the notion of having foreseen problems. He argues, quite regularly throughout his report, that it is not with hindsight that these things should be recognised; they should have been recognised beforehand. At paragraph 195 Professor Pearce adds:

The continuance of the VicTAB link was crucial to the future of ACTTAB. It was thus also crucial to the future of ACT racing and the flow of funds to the ACT.

That, of course, is the issue upon which the no-confidence motion against Mr Berry hung. I would like to reiterate a point that Ms Szuty raised. Mr Humphries asked Professor Pearce to find that Mr Berry had, indeed, deliberately misled the Legislative Assembly. I hope that Mr Humphries has learnt a lesson from this. That was an entirely inappropriate thing to do. Determining whether a member of this parliament has misled it is the role of this Assembly and nobody else. We have dealt with that issue; it was not the role of Professor Pearce. Madam Speaker, having dealt with those issues, and having heard the debate today, I would like to conclude by saying that, yes, there was good faith. It was good enough for the board to be fired for its incompetence, and there is a real question about incompetence going much further than the board.

MR BERRY (4.50): It has been interesting, Madam Speaker, to sit here and watch people squirm in the wake of this report. Nobody seems to want to talk too much about the detail of it. They certainly do not want to talk too much about its very important findings because it does put them in a rather awkward and embarrassing position. There are a couple of things I would like to deal with before I go on with my speech. The first is how names have been bandied around this place and further attempts made to blacken personal staff and other people. It is the beginning of the same old tirade. They want to do it again; they want to go through it all again. I think there is some discussion about Mr Bartholomew at paragraph 97 of the report. We heard Mr De Domenico laying into Mr Bartholomew again, further trying to blacken his character. On page 24 of the report Professor Pearce said:

... Mr Bartholomew apparently does not himself have a police record.

Mr De Domenico: That is not true.

MR BERRY: We know that doctored evidence from the Victorian Minister came into the hands of the Liberals opposite and they used it for their own purposes. I saw that Mrs Carnell is at it again as well, because she was waving around a Cabinet-in-confidence document, stating it to be the fount of all facts. Of course, it was not signed by anybody. It has no standing at all. But that is just typical.

A lot of water has flowed under the bridge since Professor Pearce was given his terms of reference to investigate the contract entered into between ACTTAB and VITAB Ltd. It is timely to go back and to look at the terms of reference given to him on 29 March 1994. He was to investigate the following matters:

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

. the arrangements for VITAB access to the Supertab pool; and

. the advice provided to the Minister for Sport;

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

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

(d) any other relevant matters.

It is important when reading the report to keep this in mind, particularly when you read the conclusions summarised at paragraph 206. My appearance before the inquiry was, of course, after this Assembly's no-confidence motion. I was happy to take advantage of the opportunity to present my case away from the political acrimony of the Assembly. It was my hope that the inquiry would get to the bottom of the whole issue, and I said at the time that it was needed to clear the air. For me, there is still one piece of the jigsaw which is not in place. Why did VicTAB cancel the contract with ACTTAB? The Liberals might know. Unfortunately, Professor Pearce did not get to the bottom of it either. He reveals at paragraph 180 that he was constrained in what he could say, and he went on to discuss only those aspects which are on the public record.

I believe that another problem is the fact that Professor Pearce did not have the opportunity to question the Victorian Racing Minister. Mr Reynolds made all sorts of accusations in the coward's castle, but he would not front. There is no question that there was collaboration between the Liberals opposite, Mr De Domenico and Mrs Carnell, and Mr Reynolds; but, still, Mr Reynolds would not front. I say that that was a typical use of the coward's castle for accusations, and one that the Liberals opposite seem comfortable with as well. More information came to light during the course of the inquiry in articles in the *Financial Review*. This is the Mr Reynolds who claimed that the inaccurate police documents were leaked to the ACT Liberals because of his concern for the best interests of racing. He did not see fit to advise the ACT Government of his concern.

Mr De Domenico: You did not ask him. You could have rung him. He would have told you.

MR BERRY: He was not interested in advising the ACT Government of his concerns, not even when I asked him about it on 10 February. I asked him what his concerns were. Do you know what he told me then? He told me that it was the issue of inducements. Of course, later on, he changed his tune, when he was reported in the *Canberra Times*. We know that Mr Reynolds intervened in the process, in the latter part of last year, and it is strange that that occurred at about the same time as the Liberals opposite were, as they describe it, doing their job. The collaboration became quite clear, and the political position became quite clear.

I have to say that it has been somewhat disturbing to me to see that this matter has been picked up and reported in the *Financial Review*, but the *Canberra Times*, here in the ACT, has not even bothered to follow up the question. I think it would have demonstrated more of an interest in all of the issues if the *Canberra Times* had followed

up that issue of the collaboration between the local Liberals and Mr Reynolds, and the implications of that. We have yet to discover the full implications, and I do not think that the Liberals will be coming out and telling us exactly what they did.

This is the same Mr Reynolds who had to cancel VicTAB's contract in Vanuatu after adverse criminal records came to light. Professor Pearce postulates that the cancellation of the VicTAB contract may be related, at least in part, to the privatisation of VicTAB. It was not that in the first place; it was inducements, according to Mr Reynolds. But the position changed from time to time, depending on the political flow. I think that the collaboration between these Liberals will always be remembered as part of this.

At paragraphs 197 and 198 Professor Pearce says:

... ACTTAB is paying a very small sum to VicTAB for access to that pool and it is unlikely that a privatised pool would be prepared to make facilities available on terms as favourable as those which now exist ...

He then draws the conclusion that the cancellation of ACTTAB's contract "may have implications for other TABs currently linked with VicTAB". He goes on to say:

It seems to me that ACTTAB has been the first to feel the chill winds of competition.

What is the cancellation all about? Unfortunately, the professor was constrained and could offer no further comment. The Minister for Racing can. The *Financial Review* reported on 17 May 1994:

The Victorian Government has not revealed Mr Chung's prison record - yet it has mounted a campaign in the past six months against Mr Chung's only competitor, VITAB Ltd, a company linked with the former Prime Minister, Mr Bob Hawke. The campaign has included leaking what appears to be altered or incomplete police information about VITAB's chief executive, Mr Con McMahon, to Opposition Liberal politicians in the ACT.

He had campaigned against VITAB competing with the Victorian Government's agent in Vanuatu for six months, and it seems that the local Liberals were part of that campaign, to the detriment of our own TAB. Already on the public record is that collusion between the ACT and the Victorian Liberals on this issue. *(Extension of time granted)* Thank you, members. Police records, inaccurate ones, leaked to the local Liberals by the Victorian Minister added to the mountain of so-called evidence which has subsequently been found to be wrong, but it contributed to the ground swell of accusation and innuendo with which the Liberals swept the Independents towards the no-confidence motion carried against me. Professor Pearce, throughout his report, refutes the evidence provided by the Liberals.

Mr Stevenson: I take a point of order, Madam Speaker. Under standing order 52, is this not a reflection on the earlier vote? Mr Berry said that the Liberal Party swept the Independents to some sort of an agreement, and then he went on to say that the professor negated that particular evidence. Is that not a reflection?

MADAM SPEAKER: Thank you for bringing that to my attention, Mr Stevenson. I believe that it is not. You may continue, Mr Berry.

MR BERRY: Madam Speaker, it is particularly interesting to note that Professor Pearce finds that the "rumours of pay-offs of various kinds to persons involved in the contracting process, directed primarily to the conduct of Mr Berry and Mr Neck", have no credence. That is something that the Liberals were behind.

Mr De Domenico: Where?

MR BERRY: More unsubstantiated allegations, but ones which were presented under the cloak of confidentiality - and don't you deny it. What else was in the Liberals' presentation to Professor Pearce, all those pages which were blacked out before public presentation? What cowardice! How many others were blackened by the Liberals' unsubstantiated claims? How can you stand there barefaced? The only thing that does not become clear is the role of the Liberals in the ACT in the cancellation of the VicTAB contract. One day we will find out. The fact is that if the VicTAB contract had not been cancelled - you have to accept that you had an involvement in it - we would not be debating this today.

Mr De Domenico: Ha, ha! There was the Victorian Government, waiting with bated breath for the ACT Liberals to influence them!

MADAM SPEAKER: Order! Mr De Domenico, you have had your turn.

MR BERRY: If VicTAB cancelled the contract because of their impending privatisation, the VITAB contract was only an excuse for that cancellation, not the real reason. As Professor Pearce finds at paragraph 186:

At the conclusion of these two meetings, the ACTTAB and VITAB representatives were convinced that VicTAB had no objection to the proposed operation of VITAB on Vanuatu and were reassured that entry into the contract would not reach the agreement between ACTTAB and VicTAB.

The fly in the ointment - buzz, buzz - came after the ACT Liberals made their approaches in late November. That is clear. But, as Professor Pearce has found, their claims are largely baseless. The Liberals compiled the so-called dossier of information, and it has turned out to be baseless claims and rumours. No wonder they were so keen to proceed with the no-confidence motion in April. No wonder they did not want to wait until Professor Pearce reported here.

Mr Cornwell: Why did you sack the board before the report came down?

MR BERRY: You would not want to wait, would you? If you had waited for the report you would have found it very difficult to mount a case.

Mr De Domenico: No; we had to get you out of the way before you did any more damage.

MR BERRY: "We had to get you out of the way before you did any more damage", Mr De Domenico says.

Mr De Domenico: That is right.

MR BERRY: Is that a new and different reason from the one that you put before?

Mr De Domenico: No.

MR BERRY: The one that you put before was that I had deliberately and recklessly misled, not that you had to act before I did some more damage; so we have new and different reasons coming up.

Mr De Domenico: You misled us so many times that you had to go.

MADAM SPEAKER: Order!

MR BERRY: I think he will have to withdraw that.

MADAM SPEAKER: That is not called for, Mr De Domenico. You will have to withdraw that. You cannot impute an improper motive to a Minister or member of any kind. You will withdraw it.

Mr De Domenico: I withdraw, Madam Speaker.

Mr Kaine: There is a motion of the Assembly that supports what you say. How do you withdraw a motion of the Assembly?

MADAM SPEAKER: Only once, Mr Kaine; only one misleading of the Assembly.

MR BERRY: Madam Speaker, the Liberals compiled the so-called dossier of information. No wonder they were so keen to proceed with the no-confidence motion. If they had waited their case would have been seen for what it is - rumour and innuendo. In my view, it was all a big con. As Professor Pearce makes clear, he could not and did not go to the issue of the no-confidence motion; but he did examine the case put by Mr Humphries. Mr Humphries wanted him to go to it. On the four categories of action which have historically resulted in a Minister resigning or being dismissed, what did he find? He found that there was no case.

Mr Connolly: "Mr Berry acted properly".

MR BERRY: That is right. "Mr Berry acted properly", says Professor Pearce. Madam Speaker, I seek leave of the Assembly to speak for about another four or five minutes.

Leave granted.

MR BERRY: Thank you. What do we find in Professor Pearce's conclusions? He said:

(1) Mr Berry, his Departmental officers, ACTTAB officials and the various advisers to these parties acted in good faith throughout the negotiations leading to the entry by ACTTAB into the contract with VITAB.

(2) Mr Berry acted properly in his role as Minister in relation to the VITAB contract but was not well advised. He would not have been under any obligation to resign as Minister for events that flowed from that contract.

Mr De Domenico: Are you going to sack your staff?

MR BERRY: It would have been very difficult if you had had that information in front of you before you started to move against me, would it not? That is why you would not wait; and that is why you are squirming, and no wonder. Of course, Professor Pearce could not get to the heart of the matter - the role of the ACT Liberals and the Victorian Liberals in the cancellation of the VicTAB link. It is, however, important that all those who have had a view on the matter examine their consciences to see how their opinion was affected by the Liberals case - a case which has been proved to be flawed, a case filled with inaccuracies, a case which turns on rumour and innuendo. Go back and ask yourselves whether you would still have come up with the same view if you had had the opportunity to see Professor Pearce's conclusions first. I think, as politicians, you would not change because you would look sillier than you are now. The sad thing today is that Professor Pearce has cut away much of the mythology, and things are not as portrayed by the Liberals.

Unfortunately for ACTTAB and the punters, we cannot go back. The ultimate losers in all of this are the people of the ACT because of the way that you have blackened the process here. We have seen a successful, profitable public institution attacked and brought into disrepute by a dirty tricks campaign. There is no question about it. There is reason to believe that the Liberals in the ACT are responsible for the cancellation of the VicTAB link, and for that they ought to be ashamed of themselves. I think we have been conned, but I welcome the report. I know that it will cause members of this place to squirm. You should have waited. You would not have been so embarrassed if you had just waited.

MR MOORE: Madam Speaker, I wish to make an explanation under standing order 47.

MADAM SPEAKER: Proceed, Mr Moore.

MR MOORE: Madam Speaker, in my speech I indicated that Professor Pearce's report was a different issue from that of the misleading of the Assembly, but Mr Berry seems to have misunderstood or wishes to misquote my speech as far as that goes. Madam Speaker, we went through a no-confidence motion because we believed that Mr Berry had explained to this Assembly that everything was okay when, as we know, everything was not okay. That was not dealt with in Professor Pearce's report. Mr Berry, even now, has misrepresented that issue in an attempt to protect himself. Madam Speaker, it is very clear that the two issues are separate. This report in no way makes me feel inclined to change my mind one iota about the issue of Mr Berry misleading this Assembly, as indeed he did in trying to give the impression that everything was okay when everything was not okay.

MR HUMPHRIES (5.10): Madam Speaker, you would think, from hearing what the Chief Minister said today, what Mr Berry has just said - I see that he is running off - and from what the Chief Minister no doubt has said to the media, that there were two different sets of documents available as a result of Professor Pearce's inquiry. You would think that there was one document which exonerates Mr Berry, which damns the ACTTAB board entirely and without any mitigation, and which says that everything the Liberals have said about the VITAB contract was untrue, and on the other hand you would expect to see a document - - -

Ms Follett: There was. Everything you said was untrue.

MR HUMPHRIES: No. In contrast, there is a document, which I appear to have a copy of, which tells a very different story, a document which clearly indicates that the VITAB contract was a serious mistake on the part of the Government, the result being that the board of the ACTTAB has been sacked by this Follett Government. We have the Minister's staff criticised by the Pearce inquiry. We have various aspects of the contract which were raised by the Liberal Party in this place and in the inquiry vindicated, and I will go on to indicate the proof of that in a moment. Madam Speaker, it appals me that there may be people out in the community who would see the Chief Minister confidently smiling into the camera and saying to people, "The VITAB report of Professor Pearce clearly vindicates the Government and it completely discredits the Liberals. Mr Berry is completely exonerated and nothing needs to be worried about. He was Star Chambered a few weeks ago when he was forced to resign". People will believe that because very few individuals in the community will pick up this document and read it.

Mr Kaine: First of all, the Government will hide every copy they can find.

MR HUMPHRIES: No doubt. We have not seen too many around so far. No doubt it will be a case of Rosemary Follett's word against that of other people in the community who say otherwise. Madam Speaker, I will quote this document to prove that what Ms Follett and others have told the Assembly about the findings of this report simply is not true. This report is a damning indictment of the claims made by Ms Follett when she said that this was "unquestionably a good deal", and Mr Berry when he said,

"VITAB agreement a big winner for the ACT". Those claims have been smashed to smithereens by the Pearce report. They have been utterly and completely destroyed. This contract was a disaster for the ACT from beginning to end. It has caused us to lose our status in the Victorian pool arrangement. It has caused us to lose, possibly, hundreds of thousands of dollars as a result of that arrangement. That is what the Pearce inquiry clearly indicates.

Mr Kaine: That is what the Chief Minister says is a good deal.

MR HUMPHRIES: That is what the Chief Minister said was a good deal. She has not repeated that claim today, but she also has not refuted it. She also has not withdrawn it. Mr Berry, on the other hand, rose and said that he actually still believes that the whole thing was a good deal. What the Pearce inquiry says, as I read it, is that Mr Berry said things about the deal, in this place and elsewhere, which turned out to be untrue, but he was not responsible for that because he did not know that they were untrue at the time. He was misled by other people about the facts, and that is his excuse for not being personally responsible for the fiasco which the VITAB deal has now become.

The fact is that what he said, both in this place and outside this place, was untrue. Point after point was untrue. Let me run through some of the things. We have this extraordinary statement in the Chief Minister's tabling statement today:

... none of the wild allegations by the Liberal Party about the VITAB issue has been proved correct.

Let me quote some of the things that have been said by Professor Pearce. One point we made in the course of the submission in this place was that the contract, as signed, did not give the ACT Government an adequate percentage of gross turnover. Professor Pearce said:

If the ordinary rules of TAB operations applied, this was all correct. However, they did not and on this basis the price could be seen as too low.

Point No. 2 is that the agreement returned such a large profit to the principals of VITAB, we, the Liberals, contended, that it provided them with a significant opportunity to attract punters from other TABs. What did Professor Pearce say? He said this:

The profit margin at which VITAB is running undoubtedly enables it to offer greater incentives to punters than ACTTAB is able to give. Once the step is taken of associating TAB facilities in Australia with a private TAB operation with a profit margin similar to VITAB, the opportunity for poaching through the offering of inducements significantly increases.

Strike two! The third point that we made was this: The Opposition contended in the submission and in this place that the only way the deal could have been financially acceptable to the ACT Government would have been through an agency arrangement. Professor Pearce found as follows:

It is almost certain that VITAB would not have assented to being an agent of ACTTAB. If ACTTAB had insisted, VITAB would have looked elsewhere for an Australian link. It is doubtful also if it would have agreed to stricter audit procedures.

Another point we made was that the ACT Government allowed ACTTAB to sign the agreement with VITAB without, it appears, having received written advice from the Victorian TAB or the Victorian Government. I recall Mrs Carnell saying that in this place and elsewhere many times. What did Professor Pearce say? He found that there was no written agreement between ACTTAB and VicTAB and he said:

The continuance of this link with VicTAB was essential not only to the VITAB contract but to the whole functioning of ACTTAB and to have allowed the arrangements to rest on mutual understanding indicates a very poor commercial sense on the part of ACTTAB.

Point No. 5 was that adequate and timely checks were not conducted to ascertain who the principals of VITAB were. We made that point repeatedly in this place and it was repeatedly denied by all the members of the Government, especially Mr Berry. What did Professor Pearce find?

... there was a failure to check the backgrounds of the persons who were proposed to be the directors of VITAB.

Point No. 6 was that both ACTTAB and the ACT Government failed to assess the likely impact this agreement would have had on Australian TAB revenues. What did Professor Pearce say? He said this:

The full ramifications of entering into a contract with a privately owned TAB operating in an off-shore tax haven were not thought through.

Insufficient heed was paid to the effect of the contract on the ACT Government generally and the racing industry in particular. No consideration was given to the need to provide a return to these bodies.

These are words quoted from Professor Pearce's report. Every one of those words vindicates what was said by the Liberal Party here and outside this chamber on many occasions.

There is just one more point to be made to refresh people's memories about what was said. Who recalls the argument about the directorship of VITAB? Who were the directors of VITAB? We have tabled documents indicating clearly that the directors of VITAB did not include a Mr Michael Dowd. That claim was attacked by the Labor Party repeatedly. Then Mr Berry stood up on the day the no-confidence motion was moved in this place and said, "Yes, he is a director; it is just that he has not been registered yet". Let me quote Professor Pearce once more. As of June this year, this month, he said:

The directors of VITAB are Mr Kolomanski, Mr McMahon and Oak Limited (a company registered in Vanuatu) ... VITAB has resolved that Mr Dowd will replace Oak Limited when he obtains the required residential status.

Madam Speaker, Mr Connolly talked about honesty before. I would expect some honesty from this Government in conceding that almost everything the Liberal Party said about the VITAB contract has been borne out and has been proved to be true. Almost everything we said about that contract has been proved to be true by this report.

Mr Wood: Everything you said about Mr Berry? No.

MR HUMPHRIES: Mr Wood raises a question about Mr Berry's role. It is clear in this report that Professor Pearce did not consider the role of Mr Berry's statements in this house because that was not in his terms of reference. Mr Connolly made the point that the Pearce inquiry was not entitled to consider the question of what Mr Berry said in this house, because of parliamentary privilege. I will come to the point made by Ms Szuty and Mr Moore in a moment. The fact of the matter is that he specifically excluded that particular issue of whether Mr Berry had or had not misled the house. *(Extension of time granted)* I thank members. I will again quote a section that has been quoted before:

Mr Berry acted properly in his role as Minister in relation to the VITAB contract but was not well advised. He would not have been under any obligation to resign as a Minister for events that flowed from that contract. This finding bears no relationship to the motion of the Legislative Assembly expressing no confidence in Mr Berry.

In other words, Professor Pearce considered that it was not within his terms of reference to consider the question of what had been said in this place in terms of the motion against Mr Berry on misleading the house. I am disappointed in one respect by that finding because the submission that I made to the Pearce inquiry was that Mr Berry should be held accountable under the principle of ministerial responsibility for decisions made about the VITAB contract, and what flowed from that should therefore be his responsibility in the sense of that doctrine. I cited to Professor Pearce the pay TV report of last year. I quoted the principles that had been set out in that Senate inquiry concerning the reasons why you would be able to find that a Minister was accountable under the doctrine. That included the four principles which justify a finding that a Minister was responsible. One of those was deliberate misleading, either in the house or outside it. The point I made was that Mr Berry had misled both the house and the broader community about that matter.

It may be, in the light of what Professor Pearce has said, and in the light of what has been said in this chamber, Madam Speaker, when the matter of the submissions that were sent to the Pearce inquiry was raised in this house on the last sitting occasion, that it was not appropriate to refer to what had been said in the house. I do note that Professor Pearce also makes comment on that subject. The position is not quite so clear cut, I might say,

as was indicated by Mr Connolly in respect of what it was possible for Professor Pearce as an inquirer into these matters to make comment on when he was conducting his inquiry. I quote from page 3 of the report, where reference is made to the question of privilege which you, Madam Speaker, raised with Professor Pearce. He said:

It is at least questionable whether reference may not be made to statements made in public session that are reported in the proceedings of the Assembly to confirm statements made before a Board of Inquiry.

I say no more about that subject at this stage. I would like to comment about that further on another occasion.

Madam Speaker, I want to conclude by saying that the Chief Minister said in March that the contract was unquestionably a good deal for the Territory. Mr Berry said that the VITAB agreement was a big winner for the ACT. Those statements today are in tatters. Compare what the Opposition said about those matters in the course of the last few months to what the Pearce inquiry has found about those matters. The deal was badly thought through. That has been found by Professor Pearce. The principals' background was not adequately checked. The implications of the deal for other TABs in Australia were overlooked by the TAB. The directorship of VITAB was misstated in this place on several occasions. Every one of those claims has been vindicated.

It is grossly distorting for members of this Government to go out of this place and pretend that this Pearce inquiry report is a vindication of the actions of this Government. If it were, we would be entitled to ask the question, "Why should it be that the TAB board has been sacked?". As Mr Moore put it quite well, "If incompetence has been found, then incompetence must be punished". If the Government claims that nothing was wrong with this deal, why has it gone ahead to punish the incompetents, the TAB board, for having advised the Minister to enter into this arrangement?

Mr De Domenico: And who appointed the board?

MR HUMPHRIES: Indeed, who appointed the board? Professor Pearce does not say, as Mr Berry suggested, that the Liberal claims are baseless; quite the contrary. He suggests that most of them, if not all of them, are true. It is sheer nonsense for Mr Berry to rise in this place and suggest that it is the Liberal Party in this place which is responsible for the cancellation of the VicTAB contract. He talked about muckraking and then threw a great wad of mud across the chamber. What complete and utter nonsense! Obviously, he roamed through this report searching desperately for words of vindication. There were pitifully few in the report to turn to.

Debate (on motion by Mr Kaine) adjourned.

BETTING (TOTALIZATOR ADMINISTRATION) ACT
Papers

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport): Madam Speaker, pursuant to section 6 of the Subordinate Laws Act 1989, I present three appointments to the Australian Capital Territory Totalizator Administration Board made under section 11 and section 27(1) of the Betting (Totalizator Administration) Act 1964. I also present a direction to the Australian Capital Territory Totalizator Administration Board made under section 9(1) of the Betting (Totalizator Administration) Act 1964. I table the explanatory statements in relation to those, for the information of the Assembly.

In relation to that, Madam Speaker, under section 11 of the Betting (Totalizator Administration) Act 1964 the Minister can appoint members to the board. These instruments appoint Mr Bruce Glanville, Ms Elizabeth Symons and Mr Mark Owens to ACTTAB. The previous instruments referring to former board members were notified in *Gazette* No. S135 of Friday, 2 July 1993. Under subsection 27(1) of the Betting (Totalizator Administration) Act 1964, the Minister can appoint an acting chief executive of ACTTAB. This instrument appoints Mr Roger Smeed to act in the position of chief executive officer. Action has been initiated to advertise the position for permanent filling beyond the acting period. The previous chief executive was not appointed by ministerial instrument.

RESIDENTIAL DEVELOPMENT GUIDELINES
Papers

MR WOOD (Minister for Education and Training, Minister for the Arts and Minister for the Environment, Land and Planning): Madam Speaker, for the information of members, I present the guidelines for residential development in the Forrest, Red Hill, Deakin, Griffith historic areas and the instrument of adoption. I move:

That the Assembly takes note of the papers.

Question resolved in the affirmative.

GOVERNMENT SERVICE - QUARTERLY STAFFING ANALYSIS
Paper

MR BERRY: Madam Speaker, for the information of members, I present the ACT Government Service quarterly staffing analysis for March 1994.

LABOUR MINISTERS COUNCIL MEETING
Paper

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (5.29): Madam Speaker, for the information of members, I have a ministerial statement on the Labour Ministers Council meeting held in Sydney on 20 May 1994.

MADAM SPEAKER: You need leave to make the statement, Mr Lamont.

MR LAMONT: Madam Speaker, I propose to table the report, and I seek the concurrence of the chamber to have its contents incorporated in *Hansard*.

Leave granted.

Document incorporated at Appendix 2.

MR LAMONT: I move:

That the Assembly takes note of the paper.

Debate (on motion by Mr De Domenico) adjourned.

ADMINISTRATION AND PROCEDURES - STANDING COMMITTEE
Report on Matter of Privilege - Government Response

MS FOLLETT (Chief Minister and Treasurer): Madam Speaker, I seek leave of the Assembly to make a ministerial statement concerning the response to the Standing Committee on Administration and Procedures report on the Government response to the report of the Estimates Committee 1993-94.

Leave granted.

MS FOLLETT: I thank members. I would like to take this opportunity, Madam Speaker, to respond to the Administration and Procedures Committee's report on the Government's response to last year's Estimates Committee report. I apologise to the Assembly for presenting the response a day late. This was a result of the workload that has been involved in the earlier presentation of the budget. Madam Speaker, I view the unauthorised disclosure of any Assembly committee material with great concern, and I have taken steps to implement the Administration and Procedures Committee's recommendations to ensure that all officers are aware of the procedures and practices with regard to committee documents. I have requested the Under Treasurer to ensure that staff within his department are fully aware of proper procedures and the confidentiality of the committee process. Training seminars on the role and operation of parliamentary committees will also be held. To the best of my ability, Madam Speaker, I assure the Assembly that no action will be taken in the future by my Government or its employees which breaches the confidentiality of committee documents.

With regard to the other recommendation of the Administration and Procedures Committee, the handbook on parliamentary inquiries has now been updated to include information on standing orders 241 and 242, and the confidentiality of the committee process. Further, Madam Speaker, the Assembly Secretariat, as members might know, conducts a number of seminars throughout the year on the committee process, and all relevant officers will be encouraged to attend. Finally, Madam Speaker, I would like to thank members of the Administration and Procedures Committee for their time and effort in investigating this serious matter. I trust that such investigation will not be necessary in the future.

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

MRS GRASSBY: Madam Speaker, I present report No. 10 of 1994 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I ask for leave to make a brief statement.

Leave granted.

MRS GRASSBY: Report No. 10 of 1994 contains comments on four Bills. I commend the report to the Assembly.

ADJOURNMENT

Motion (by Mr Berry) agreed to:

That the Assembly do now adjourn.

Assembly adjourned at 5.32 pm