



DEBATES
OF THE
LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY

HANSARD

16 June 1994

Thursday, 16 June 1994

Annual Reporting (Government Agencies) Bill 1994	2021
Annual Reporting (Government Agencies) (Consequential Provisions) Bill 1994.....	2021
Nurses (Amendment) Bill 1994.....	2022
Veterinary Surgeons (Amendment) Bill 1994.....	2022
Physiotherapists (Amendment) Bill 1994	2023
Administrative Appeals Tribunal (Amendment) Bill (No. 2) 1994	2023
Interpretation (Amendment) Bill 1994	2024
Administrative Appeals (Consequential Amendments) Bill 1994	2024
Credit (Amendment) Bill 1994.....	2025
Mental Health (Treatment and Care) Bill 1994.....	2025
Crimes (Amendment) Bill 1994	2026
Mental Health (Consequential Provisions) Bill 1994	2026
Commercial and Tenancy Tribunal Bill 1994.....	2027
Lands Acquisition Bill 1994.....	2027
Nature Conservation (Amendment) Bill 1994	2028
Basic water allowance.....	2028
Public Sector - standing committee	2043
Social Policy - standing committee	2046
Legal Affairs - standing committee	2050
Administration and Procedures - standing committee.....	2051
Tourism and ACT Promotion - standing committee	2052
Legal Affairs - standing committee	2055
Public Accounts - standing committee	2056
Questions without notice:	
Woden Valley Hospital - bed numbers	2060
Education budget.....	2061
Credit Tribunal.....	2062
Budget supplementation	2063
Housing Trust budget.....	2064
National Exhibition Centre and Canberra racecourse - development proposals.....	2064
Senior citizens.....	2066
Answers to questions on notice	2068
Appropriation Bill 1994-95	2068
Estimates 1994-95 - select committee	2114
Auditor-General - report No. 4 of 1994	2115
Aboriginal Deaths in Custody - royal commission (Ministerial statement)	2115
Conservation, Heritage and Environment - standing committee (Ministerial statement)	2116
Tobacco Act (Ministerial statement)	2116
Subordinate legislation.....	2117
Rates and Land Tax (Amendment) Bill 1994	2117
Personal explanation	2123
Rates and Land Rent (Relief) (Amendment) Bill 1994	2124

Personal explanation	2126
Financial Institutions Duty (Validation) Bill 1994.....	2129
Lotteries (Amendment) Bill 1994.....	2139
Public Sector Management Bill 1994	2152
Postponement of order of the day	2171
Day of next meeting.....	2172
Establishment of an ACT Public Service - select committee.....	2172
Adjournment.....	2173
Answers to questions:	
Canberra Theatre Centre - hire arrangements (Question No. 1279).....	2175
Fairbairn Park - new track (Question No. 1283)	2177
ACTTAB-VITAB Ltd contract - inquiry expenses (Question No. 1285).....	2179
Secondary colleges - course frameworks (Question No. 1289).....	2182
North Watson development area (Question No. 1290).....	2184
Medium density leases (Question No. 1291).....	2185
Preschools - enrolment statistics (Question No. 1295)	2186
Appendix 1: Inquiry into contract between ACTTAB and VITAB Ltd.....	2189
Appendix 2: Labour Ministers Council meeting	2200
Appendix 3: Annual Reporting (Government Agencies) Bill 1994	2212
Appendix 4: Annual Reporting (Government Agencies) (Consequential Provisions) Bill 1994	2215
Appendix 5: Nurses (Amendment) Bill 1994.....	2217
Appendix 6: Veterinary Surgeons (Amendment) Bill 1994.....	2223
Appendix 7: Physiotherapists (Amendment) Bill 1994	2229
Appendix 8: Administrative Appeals Tribunal (Amendment) Bill (No. 2) 1994.....	2234
Appendix 9: Interpretation (Amendment) Bill 1994	2241
Appendix 10: Administrative Appeals (Consequential Amendments) Bill 1994.....	2243
Appendix 11: Credit (Amendment) Bill 1994.....	2246
Appendix 12: Mental Health (Treatment and Care) Bill 1994 and Mental Health (Consequential Provisions) Bill 1994	2251
Appendix 13: Crimes (Amendment) Bill 1994	2255
Appendix 14: Commercial and Tenancy Tribunal Bill 1994.....	2261
Appendix 15: Lands Acquisition Bill 1994.....	2272
Appendix 16: Nature Conservation (Amendment) Bill 1994	2278
Appendix 17: Aboriginal Deaths in Custody - royal commission.....	2283
Appendix 18: Conservation, Heritage and Environment - standing committee	2297

Thursday, 16 June 1994

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

ANNUAL REPORTING (GOVERNMENT AGENCIES) BILL 1994

MS FOLLETT (Chief Minister and Treasurer) (10.31): Madam Speaker, I present the Annual Reporting (Government Agencies) Bill 1994.

Title read by Clerk.

MS FOLLETT: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 3.

MS FOLLETT: I present the explanatory memorandum to the Bill.

Debate (on motion by Mrs Carnell) adjourned.

**ANNUAL REPORTING (GOVERNMENT AGENCIES)
(CONSEQUENTIAL PROVISIONS) BILL 1994**

MS FOLLETT (Chief Minister and Treasurer) (10.31): Madam Speaker, I present the Annual Reporting (Government Agencies) (Consequential Provisions) Bill 1994.

Title read by Clerk.

MS FOLLETT: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 4.

16 June 1994

MS FOLLETT: I present the explanatory memorandum to the Bill.

Debate (on motion by Mrs Carnell) adjourned.

NURSES (AMENDMENT) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.32): Madam Speaker, I present the Nurses (Amendment) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 5.

MR CONNOLLY: I present an explanatory memorandum to the Bill.

Debate (on motion by Mrs Carnell) adjourned.

VETERINARY SURGEONS (AMENDMENT) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.33): Madam Speaker, I present the Veterinary Surgeons (Amendment) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 6.

MR CONNOLLY: I present an explanatory memorandum to the Bill.

Debate (on motion by Mrs Carnell) adjourned.

PHYSIOTHERAPISTS (AMENDMENT) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.34): Madam Speaker, I present the Physiotherapists (Amendment) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 7.

MR CONNOLLY: I present an explanatory memorandum to the Bill.

Debate (on motion by Mrs Carnell) adjourned.

ADMINISTRATIVE APPEALS TRIBUNAL (AMENDMENT) BILL (NO. 2) 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.35): Madam Speaker, I present the Administrative Appeals Tribunal (Amendment) Bill (No. 2) 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 8.

MR CONNOLLY: I present an explanatory memorandum to the Bill.

Debate (on motion by Mr Humphries) adjourned.

16 June 1994

INTERPRETATION (AMENDMENT) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.35): I present the Interpretation (Amendment) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 9.

MR CONNOLLY: I present an explanatory memorandum to this Bill and the Administrative Appeals (Consequential Amendments) Bill 1994.

Debate (on motion by Mr Humphries) adjourned.

**ADMINISTRATIVE APPEALS (CONSEQUENTIAL AMENDMENTS)
BILL 1994**

MR CONNOLLY (Attorney-General and Minister for Health) (10.36): Madam Speaker, I present the Administrative Appeals (Consequential Amendments) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 10.

Debate (on motion by Mr Humphries) adjourned.

CREDIT (AMENDMENT) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.37): Madam Speaker, I present the Credit (Amendment) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 11.

MR CONNOLLY: Madam Speaker, I present an explanatory memorandum to the Bill.

Debate (on motion by Mr Humphries) adjourned.

MENTAL HEALTH (TREATMENT AND CARE) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.37): Madam Speaker, I present the Mental Health (Treatment and Care) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 12.

MR CONNOLLY: I present an explanatory memorandum to the Bill.

Debate (on motion by Mrs Carnell) adjourned.

16 June 1994

CRIMES (AMENDMENT) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.38): Madam Speaker, I present the Crimes (Amendment) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 13.

MR CONNOLLY: I present an explanatory memorandum to the Bill.

Debate (on motion by Mr Humphries) adjourned.

MENTAL HEALTH (CONSEQUENTIAL PROVISIONS) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.39): Madam Speaker, I present the Mental Health (Consequential Provisions) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I present an explanatory memorandum to the Bill.

Debate (on motion by Mrs Carnell) adjourned.

COMMERCIAL AND TENANCY TRIBUNAL BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (10.40): Madam Speaker, I present the Commercial and Tenancy Tribunal Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

I ask for leave to have my speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 14.

MR CONNOLLY: I present an explanatory memorandum to the Bill and the draft commercial and retail leases code of practice. I thank the attendants for their work.

Debate (on motion by Mr Westende) adjourned.

LANDS ACQUISITION BILL 1994

MS FOLLETT (Chief Minister and Treasurer) (10.41): On behalf of Mr Wood, I present the Lands Acquisition Bill 1994.

Title read by Clerk.

MS FOLLETT: I move:

That this Bill be agreed to in principle.

I ask for leave to incorporate Mr Wood's speech in *Hansard*.

Leave granted.

Speech incorporated at Appendix 15.

MS FOLLETT: I present an explanatory memorandum to the Bill.

Debate (on motion by Mr Cornwell) adjourned.

16 June 1994

NATURE CONSERVATION (AMENDMENT) BILL 1994

MS FOLLETT (Chief Minister and Treasurer) (10.42): On behalf of Mr Wood, I present the Nature Conservation (Amendment) Bill 1994.

Title read by Clerk.

MS FOLLETT: I move:

That this Bill be agreed to in principle.

I ask for leave to incorporate Mr Wood's speech in *Hansard*.

Leave granted.

Speech incorporated at Appendix 16.

MS FOLLETT: I present an explanatory memorandum to the Bill.

Debate (on motion by Mr Westende) adjourned.

BASIC WATER ALLOWANCE Motion for Disallowance

MR MOORE (10.42): I move:

That Determination No. 29 of 1994, which sets the basic water allowance, be disallowed.

In moving for the disallowance of this particular determination, I think it is important that members understand that the concern I have is not just with this particular determination but also with the determination that has been gazetted by the ACTEW board. But it is within our power to move only for the disallowance of the fundamental determination on which the rest hinges, and that is the determination made by Mr Lamont that changes our 350-kilolitre allowance to one kilolitre. If members see their way clear to disallow that determination, then ACTEW will have to go back to their drawing board and prepare a sensible system. They have not prepared a sensible system. They have come up with a half-baked idea that simply does not serve our community well at all. It may indeed serve ACTEW well, but it does not help our community.

When we have heard public argument on this issue, we have certainly heard the Minister and others argue that this system that ACTEW has come up with has the support of the Conservation Council and we have heard that it has the support of ACTCOSS. Of course, their support is only in-principle support for a user pays system. Let me make it very clear from the beginning, Madam Speaker, that I do not oppose a sensible user pays system, one that has been well thought out and that works. In fact, my personal view is that water ought to be charged for in the same way as electricity; that there ought

to be no water allowance and we should simply charge as people use it. But to do that we have to have in place systems that ensure that all people are charged equitably. That will mean the metering of water right across our community, right across our system. Instead, what we have is ACTEW completing a snow job on this Minister with a system that is half baked and based on faulty information.

I would like to start with the conservation issue, because the only conservation issue is the con that ACTEW has put in conservation. Let us begin with conservation of water. What we should all understand from the word go is that water is a renewable resource. The water that is supplied in Alice Springs or where I lived on the Eyre Peninsula in South Australia, which gets water from the Polda Basin, is not a renewable resource; but in the ACT it is indeed a renewable resource and, as such, there is no fundamental reason to conserve a renewable resource, unless we are talking about the issue of whether or not to build another dam. When we are talking about the issue of whether or not to build another dam, we are talking about a real and genuine conservation issue.

What is the truth about a new dam? Madam Speaker, I have had the opportunity to speak to NCDC water engineers who worked on the design of the ACT water supply system, starting back in the 1960s. Huge water restrictions in 1968 meant that the only watering you could do was by standing with a hose in your hand for two hours. That level of water restriction caused concern. After 1968 engineers designed a water storage for an ACT population of 475,000, which they perceived being reached by about the year 2015. Things have changed. In our latest estimate, we are talking about 500,000 people in the year 2044. We have a system of water storage, designed back in the late 1960s, that can handle 475,000 people. We have already changed our water allowance from 455 kilolitres to 350 kilolitres to take account of the increased level of population and to take us through for more than 50 years. It is more than 50 years before we need to even look at a new dam. That is the first point.

The second point, Madam Speaker, is that we are developing new and better strategies for ensuring that we use water more carefully. Many people are introducing appropriate sprinkler systems. The gardens that are being planted in new suburbs throughout Canberra are native gardens that require less water. People are more conscious of using less water. More importantly, Madam Speaker, we are in the early stages of introducing a system using "grey" water - in other words, water that is at least partially treated - on ovals. The indications are that we are unlikely to need a new dam in the next 50 years and that we probably never will. We probably have an adequate water supply already, taking those things into account. So the whole issue of conservation is simply a con.

There is also the issue of equity. Madam Speaker, we have heard that ACTCOSS is very keen to ensure that this system goes ahead. ACTCOSS wrote to the Minister - and I have a copy of that letter - on 5 June, after this announcement, presenting a series of concerns. They support in principle a change to a more equitable system, as do I and as, I imagine, do most members, but not the stuffed up system that ACTEW has proposed. The letter written to the Minister by Allan Anforth talks about, amongst other things, about two basic principles which should guide the Government's response to tenant issues. The first is:

16 June 1994

... that tenants should be placed, as nearly as possible, on the same footing as owner occupiers. They should be neither advantaged or disadvantaged by the new water charging policies;

Then ACTCOSS goes into a whole series of methods by which that might be done. Those methods are incredibly complicated because the system that ACTEW has proposed is incredibly complicated, and it need not be. ACTEW should plan a long-term strategy to deal with this issue.

There is a series of unanswered questions about the equity issue. Has the Minister, or ACTEW, worked out how those living in corporate housing will be metered? Will they have to pay for separate meters to be installed? Will they have to pay extra to have these meters read? What about tenants? Will landlords be compelled to reduce their rent to the tune of \$87 a year to compensate for the so-called free limit of water allowed now? Will tenants be charged connection/disconnection fees for water as they are for electricity every time they move house? If not, how will you police who has used what water and who is responsible for the payments?

These are the things that ACTEW just simply has not thought out. When we go away on holidays, what safeguard will we have to protect our water from theft by neighbours? Does this mean that we will have a new definition for water police? What safeguards are going to be put in place to stop landlords taking bond money from tenants for not watering their lawns and gardens? Will those on low incomes with a larger than average group of dependants be given assistance for their water costs? How will pensioners who are in bodies corporate be given their 50 per cent rebate when there is only one meter per block of units? This issue of water rebates will be dealt with later today when we deal with a Bill introduced by the Chief Minister, and I shall come to that later.

How does ACTEW handle its media campaign? It says that everybody is going to be a winner. In our briefing we heard that all ordinary people are going to be winners out of this, but it is going to be cost neutral. They cannot have it both ways. Somebody has to be the loser. What did ACTEW do? They set up a hotline. They said to ordinary people, "Phone in. Find out what it is going to cost you". That is a very good strategy, because about 80 to 90 per cent of people who phone in are going to find that it is going to cost them less. If it is going to cost less for almost everybody, how are ACTEW going to manage to keep it cost neutral? The answer is that, obviously, somebody has to pay.

In our briefings, we said, "Who is going to pay?". We were told, "It is the big users who are going to pay. It is going to be users like Federal Parliament House and perhaps the universities". That is great. I have no problem at all with those big users paying into ACT coffers, because it is so hard to find a way to tax them anyway. But who is the main big user that is going to have to pay? Who is the biggest user that is really going to pay? It is DELP and it is the Department of Education. It is Mr Wood's department that is going to transfer a stack of money across to ACTEW. ACTEW have put up this proposal that is going to take funds out of one section of government to make their business operation work so as to make everybody feel better. Then, of course, they are going to put the \$20m into government.

The Government will realise that this is not going to work. It is a total stuff-up. That is why we should disallow the determination and we should send ACTEW back to the drawing board. We should tell them, "You might be able to snow the new Minister who has just taken over, who did not really have time to look at what you were doing; but you cannot snow the rest of us. Go back and do the job properly. Give us a timeline when you can meter all users. Give us a timeline when you can introduce this properly. Give us a proper account of where the money is coming from, how you are going to keep the system cost neutral and how you are going to return the money that is basically part of the ACT revenue. Answer those questions. Come up with a user pays system". I have no problem about a user pays system.

The system should also be balanced with government. This afternoon we are going to debate a pensioner rebate system. In the briefing that Helen Szuty and I were given yesterday, we were shown that, because of some difference in approach, pensioners in fact will be able to get 390 kilolitres of water - that will be about the break-even point - at rebated rates before they are charged excess. The system is all over the place. It is a total stuff-up. It is important for this Assembly to say to this Minister and to ACTEW, "Hey; it is not working. What you have suggested does not add up in the community interest". There is a way to do it. I do not mind saying here that the way to do it, as far as I am concerned, is to begin charging on a full user pays basis. I was appreciative of the Liberals passing to us a Jonathan Baldry critique of punitive pricing stating that punitive pricing basically does not work in this sort of situation and asking why we do not go the full way. But before you go the full way, you have to be able to do it equitably. That is the challenge for ACTEW and that is what they have to meet.

Madam Speaker, I would like the Government to support this disallowance motion, realising that a new Minister has been snowed by the ACTEW board. One has to question the competence of this board when it comes up with a system such as this. Ms Szuty will deal with some of the research information upon which they based their decision and some of the claims they are making. They should stop trying to do a con job on the Canberra community and come up with a system that works, a better system.

In any business - and I say this particularly to the Liberals - if somebody comes up with a system that is totally stuffed up and has holes all the way through it, what do you do with it? Do you say, "We will put the system through now, look at it later and then deal with it."? No, you do not. You send a message that if our public service, ACTEW, is going to work in a business way, as they want to work, we are sending this proposal back to them, saying, "You have got it wrong. Do it right". That is what this disallowance motion is about.

Mr De Domenico: Will you send the Public Sector Management Bill back to the drawing board until they get it right?

MR MOORE: We hear an interjection about the Public Sector Management Bill. We will deal with that this afternoon and we will deal with it probably next week, but for the moment let us deal with this particular issue. You know that it is a stuff-up.

16 June 1994

Either you can let ACTEW continue to get away with this or you can actually do something that is really appropriate for the Canberra community and that puts ACTEW on notice that we are not going to tolerate that sort of business, and support this motion to disallow the determination.

The Minister must accept some responsibility for this determination, but at the same time we recognise that the Minister has been in his portfolio for only a small part of the time during which this whole thing has been prepared. I do not consider it as important to take on this Minister as it is to take on ACTEW and its responsibility. They are the ones that have really stuffed it up. They are the ones that want to be seen to be a business enterprise. What a shocker of a business it would be, if this is the calibre of the work they do! Members, I urge you to support this disallowance motion.

MS SZUTY (10.57): Madam Speaker, my colleague Mr Moore has not proposed this disallowance motion for the Assembly's consideration lightly. Both Mr Moore and I consider the issue of water conservation to be an issue of the highest importance and significance to the Territory and to the people of the ACT. However, we disagree with the process and the mechanism by which ACTEW wants to change water pricing arrangements in the ACT. I wish to concentrate my remarks on the disallowance motion in two areas. First, I want to talk about the paper *ACT Future Water Supply: Summary of Draft Strategy* of December 1993 and I then want to move on to talk about the independent survey commissioned by ACTEW to affirm or confirm the water pricing arrangements that ACTEW is seeking to put in place.

Madam Speaker, before turning to these two issues in detail, I would like to state at the outset that I have always felt uncomfortable with total user pays systems, particularly as they apply to areas of fundamental importance to each and every person in the community. One of these areas must be considered to be water. I believe that I have a difference of view with my colleague Mr Moore on precisely what needs to occur in the future. However, we both agree that the current arrangements as they are proposed are just simply not adequate.

It is obvious, in the first instance, that under a user pays system households with larger numbers of family members will be more adversely affected than others. Where have we heard that before? Who remembers the infamous poll tax which the Conservative Government in Britain wanted to apply to people in that country? The poll tax, of course, was an issue that penalised individuals living in households, not households themselves. It was loathed and detested by the community in Britain and was subsequently defeated as an issue. I believe that ACTEW's attempts to change water pricing arrangements have some analogies to the imposition of the poll tax in Great Britain. The Government has also recently acknowledged that pensioners will be disadvantaged under the new arrangements by introducing measures in the Rates and Land Rent (Relief) (Amendment) Bill 1994 which will prevent too great a disadvantage being felt by pensioners. This measure alone is worth \$140,000, by Government calculations.

I would like to move now, Madam Speaker, to the two issues that I said earlier I would like to concentrate on in the debate today, as my colleague Mr Moore has covered a number of other issues. I have been fully supportive of the community consultation process embarked on by ACTEW to address the very real issues of water conservation that the Territory needs to come to terms with. The production of the draft strategy paper is an indication of ACTEW's commitment in this area. I have reviewed the document recently, and I would like to draw the attention of the Assembly to two matters in particular. I refer to table 1.1 on page 11, the expected variation in ACT consumers' water bills for different pricing models. Members will note that there were five different water pricing models presented in that report. The text of the report on page 10 states:

As a means of maintaining the ability to compare the different options to the present pricing structure, charges were selected for each option on the assumption that there was to be no increase in ACTEW revenue.

This is not a true statement, Madam Speaker. Subsequent mathematical calculations that I sought out indicated that model No. 5, with a base water allowance of 175 kilolitres, a base charge of \$130 per year and water used over 175 kilolitres being charged at 67c per kilolitre, is not a revenue neutral option. In fact, calculations indicate that ACTEW would lose revenue if this option were decided upon. Mr Lamont is shaking his head, but I have the calculations with me. I would be happy to show them to you, Mr Lamont, so that you can verify what I am saying.

Mr Lamont: The simple fact is that we have gone for 350 kilolitres.

MS SZUTY: This is one of the options presented as a revenue neutral option, which it is not. What, then, does this say about the overall quality of the ACTEW draft strategy, if one of the fundamentals of the strategy is fundamentally wrong?

Madam Speaker, I was pleased to see the extensive summary of strategy tasks outlined at the conclusion of the report. What was missing from this very lengthy timetable, however, was any indication that alternative water pricing structures would be introduced by 1 July 1995. Yet, if the report is read carefully, it can be seen on page 7:

Accordingly, it is intended that a new pricing system will be introduced for the 1994/95 financial year, on a revenue neutral basis.

When I sought a briefing on this issue, Madam Speaker, Dr Mike Sargent, the chief executive officer of ACTEW, generously made available to me a copy of the report of the independent consultation which was commissioned by ACTEW to look at alternative water pricing arrangements. I have also viewed this document carefully, Madam Speaker, and it seems to me that it was very much an enabling document. In other words, Quadrant Research knew what the client, ACTEW, was looking for from its community consultation process and Quadrant delivered the result accordingly. I have since sought independent expert advice about the details of the report, which I received yesterday and which confirms all the reservations that I had about this so-called independent research. The independent expert is someone of considerable standing in the community. An independent expert has reviewed this document very carefully, and I am very confident of the advice that I have received on it.

16 June 1994

It is very easy, Madam Speaker, to appear to do the right thing in a process of community consultation without achieving solid reliable data which is a true reflection of what people feel about the issue. In this survey, Madam Speaker, Quadrant contacted a sample of 579 people by telephone. Initially, they were asked about their attitudes to ACTEW. Then they were asked to attend community forums, representing the ACT community, to put their views on water conservation. Despite considerable encouragement from Quadrant, only 249 of the original 579 people contacted attended the community forums. What we have here, Madam Speaker, is a self-selected sample of 249 people - the 249 people who chose to attend the community forums after their initial interviews.

On presentation at the community forums, people were made aware that ACTEW representatives were in attendance to initially brief people on a number of the matters in relation to water conservation. At that stage they were asked to complete extensive surveys. Madam Speaker, question No. 14 was the nub of the survey. It was the question about desired water pricing arrangements. Interestingly, the people who attended the community forums said that altering the pricing arrangements for water rates was their third preferred strategy in relation to what could be done to encourage water conservation. Not surprisingly, the first and second preferences were greater education and awareness and greater emphasis on water conservation and efficiencies.

Madam Speaker, the most interesting part of the survey results is the direct quoting of a number of comments made by people attending the community forums about water conservation strategies, and I would like to mention a number of them. I realise that these comments are selective in a way, but I think they are indicative of the goodwill that people who attended the community forums expressed. The question was:

To what extent do you think the current water pricing system is equitable? Please write down your reason.

Some of the responses were:

There needs to be some cross subsidisation - these occur in many aspects of community life. People with large families ought to be taken into account if system is changed ...

The price should provide an incentive for consumers to minimise water use and a disincentive for consumers to maximise use, as a public utility. ACTEW should not be required to make a profit but must be seen to be efficient.

We, a family of four, use about 180kl per annum. I wouldn't mind our charges if the cut off were 180kl. We conserve but I don't tell my kids we underconsume.

I don't think its altogether fair because perhaps number of persons per household should be taken into account so as not to penalise large families who may actually be efficient - otherwise it's hard for me to judge as I am a tenant and never see my water bills - which I think is unfair on my landlord - the ACT Housing Trust.

Madam Speaker, I believe that ACTEW has got the question of future water pricing arrangements for the ACT wrong. The Assembly and the community need much more time to address the issues to ensure that a balance between social justice issues and green issues can be met. I urge members to support Mr Moore's disallowance motion today, which will allow the issue to be revisited over the next 12 months.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (11.08): In responding to the comments made by Mr Moore and Ms Szuty, I do not intend to get into the sorts of personal issues about a new Minister and so forth that Mr Moore alluded to. I quite comprehensively reviewed the documentation in relation to the proposals by ACTEW. I questioned ACTEW extensively on the proposals as outlined and ultimately determined by the board. Then I agreed to sign and to table the appropriate instrument to reduce the budget allowance to one kilolitre, because there was no provision within the Act to have no water allowance. That means that, if at some stage we wanted to do away with that water allowance altogether, we would have to put an appropriate amendment to the house. That is the procedure that I will be following.

Let us talk about some of the issues that Mr Moore and Ms Szuty have raised. I am absolutely amazed at the anonymous independent expert. I suggest that it was probably the mermaid at Bondi Beach, an independent expert in water. That is about the sum total of it, and that is the only credence that anybody can give to an unnamed independent expert criticising a public utility. As a public utility, ACTEW has been prepared - as I believe is their obligation - to make clear whom they use and how they use them, to name the group, and to source information and references. Yet we hear criticism in this house that they embarked on an exercise to give them a desired result. The result was not necessarily what ACTEW would have preferred.

Ms Szuty has mysteriously squirreled away somewhere this independent expert who pops out of the woodwork to provide her with this sort of all-enlightening advice from time to time. I think as an Assembly we need to test the validity of that criticism before we accept it. I do not say that the validity is lessened when we know the name of the person making the criticism and we as an Assembly can determine whether or not that person is an independent expert. Quite simply, in relation to this independent expert - - -

16 June 1994

Mr Moore: Deal with the issues Ms Szuty raised.

MR LAMONT: I do not intend to cover the issues that were raised, Mr Moore, because they have no validity. If we criticise the processes that ACTEW have applied, then each one of those processes can be tested by this Assembly. That is not so in relation to these alleged - and I emphasise "alleged" - expert opinions. Their veracity cannot be tested within this Assembly. Madam Speaker, I suggest to you that the veracity of the issues represented by ACTEW in this proposal has not been countered by either Mr Moore or Ms Szuty.

Mr Moore: Fortunately, you are not the one judging that.

MR LAMONT: We are all judging it, Mr Moore, as is appropriate. I know that you, Ms Szuty, Mr Stevenson, members opposite and the Government accept that that is the role of this Assembly.

We have already had a rigorous community consultation process. The issues associated with the new strategy arising out of that are overwhelmingly supported in our community. In accepting that basic premise - and I think that we can; I think that that is in fact the case - we need to look at a number of the issues that have been raised by ACTCOSS. For example, they say that public tenants who currently pay for excess water will receive absolutely no benefit if by conserving water they reduce their consumption to below the allowable limit of 350 kilolitres. In those circumstances the Government has undertaken that we will continue to charge beyond the 350 kilolitres, but we will provide rebates to Housing Trust tenants in stand-alone houses where meters can verify usage. That is an undertaking we have already given.

Now we go to the next issue raised - pensioner rebates. Ms Szuty and Mr Moore said, "But a pensioner is entitled to 390 kilolitres before they start paying the excess". In my view, that is appropriate. If it were otherwise, the first thing that Mr Moore would stand up here and say is, "Look what you have done. You are disadvantaging the pensioners in the community". By increasing the level to 65 per cent we made sure that no such accusation could be made and that no pensioner would be worse off under these new arrangements. I believe that that is a socially responsible position for us to adopt.

In looking at the total strategy, there is one flaw - that is, what happens in the private sector. I do not have a big enough stick, Mr Moore, to go out and say to private landlords, "I am going to beat you over the head unless, by reducing your rent, you pass on the reduction in the fixed cost that we are proposing". I believe that all rental tenants in the ACT should be screaming at their landlords from 1 July this year to reduce their rental rates.

Mr Kaine: Including the Housing Trust?

MR LAMONT: I will come back to the question of tenants of flats. I have already covered the stand-alone units. In relation to the private rental market, Mr Kaine, I believe that it is an obligation on landlords to pass on the reduction in that fixed cost. If there was a way in which I could require them to do it, Mr Moore, I would do it. On the advice provided to me, to meter every unit within blocks of Housing Trust flats would be extremely expensive and would negate any cost advantage.

Substantial refurbishments occur from time to time, both in the Housing Trust area and in the private market, in unit construction and unit reorganisation. We are looking at ways in which we can individually meter units when that sort of activity occurs. We have also given an undertaking to have newly constructed flats individually metered. I believe that that is a responsible way for us to have responded to that issue.

Mr Moore: Who pays?

MR LAMONT: Mr Moore glibly says, "Who pays?". Mr Moore, the question is: Who saves? That is what it really means. What it means, Mr Moore, on any assessment - whether by ACTCOSS, by the Conservation Council, by ACTEW, or even by an independent expert I could dream up from somewhere - is that unless we have substantial water conservation here in the Territory we will be required to start funding a new dam for the Territory within the next four or five years.

What we are looking at now is a water pricing regime and a continuing strategy which will stop the impost on every single household in Canberra of additional rates in the order of \$200 a year. That is the sort of thing we are trying to stop. Mr Moore, when you go out today with your press release, it should be headed "Moore Demands Households Pay More: More by Moore". That is what the headline should be. Madam Speaker, I believe that it is an appropriate regime we have implemented, and for Mr Moore to do as he is doing to disallow this determination is socially irresponsible.

MR DE DOMENICO (11.19): Madam Speaker, it has been very interesting sitting here in silence. I hope that you noticed that there were very few interjections from me. I do not know whether I am learning or whether I am getting weaker; but I did, on purpose, sit and listen very intently to what was said by Mr Moore, Ms Szuty and Mr Lamont, and I can honestly say that I am still singularly unconvinced by any of the three. I think a lot of what Mr Moore said makes a lot of sense. He said that water is a renewable resource. Like Mr Moore, I did a little bit of homework, but probably not as much as Mr Moore did. I have spoken to the NCDC as well and to other people, and I am aware that - - -

Mr Wood: It does not exist any more.

MR DE DOMENICO: Mr Wood interjects - it is good to see you back, Mr Wood - that the appropriate people are the National Capital Planning Authority - - -

Mr Wood: The NCPA.

16 June 1994

MR DE DOMENICO: I spoke to the NCPA and others. They tell me that it is their belief that, at one stage, the reservoir capacity was built for a population of about 475,000 people in the year 2015, but now we are looking at half a million people by the year 2044. We also know that the water allowance was changed recently from 455 kilolitres to 350 kilolitres. Mr Moore suggested that on those figures it is going to be more than 50 years before we need a new dam. Once again, I am not going to argue with that figure, but I wonder whether we have taken into account our rate of growth. As we know, certain areas of the ACT are growing faster than any other areas in the country, except for south-east Queensland.

Mr Moore: That is exactly what I did take into account. I will explain it again for you.

MR DE DOMENICO: Thank you, Mr Moore. I agree with Mr Moore that more needs to be done about developing better strategies. Mr Moore talked about the use of "grey" water. I do not think he talked about the use of backyard water tanks, but it is something that Mrs Carnell and I and the Liberal Party have been interested in. Mr Moore mentioned sprinkler systems. He went on to talk about equity. Once again, I do not disagree with too much of what he said about equity. He mentioned discussions he had with ACTCOSS and letters he had received from ACTCOSS. The Liberal Party has received similar letters. We have spoken to ACTCOSS as well. ACTCOSS believes that tenants should be treated the same as owner occupiers. That is something that the Liberal Party has always said it believes in.

What Mr Moore was saying, if I understand him correctly, is that he fully supports the concept of user pays. I cannot disagree with Mr Moore on that basic principle. I also agree with Mr Moore that it is hard to understand how something that we are told is going to cost less for most people can be revenue neutral. So there were some more questions that we asked ACTEW. I would like to thank the Minister and ACTEW for being so ready to brief members of this Assembly.

I also agree with Mr Moore's argument that the big users should pay. No-one can go against the fact that the bigger users should be paying more. Like Mr Moore, we had a look at who the big users are, and the big users happen to be the Government - DELP, the schools and other government departments. It does not take someone with an economics degree to realise that in those sorts of circumstances we have the Government paying ACTEW and ACTEW paying back the Government. You cannot have it both ways. You cannot have a system under which everybody wins and which is revenue neutral. We have asked questions of ACTEW, but they are yet to come back with a detailed response. But let us not get into details at this stage.

Mr Moore continually used the word "stuff-up". I believe that Mr Moore used the same word last year when he moved a disallowance motion in respect of electricity prices. Mr Moore went on to say that his conclusions were that perhaps this new Minister had been snowed by the board and that ACTEW had done a con job on the Canberra community. He said that it was a stuffed up system. He said that if the private sector came up with a business system that was stuffed up the Liberals would not accept it; they would send it back. I interjected, inviting Mr Moore later on this afternoon to look at whether he believes that the Public Sector Management Bill is of a similar nature and asking whether he would be prepared to send that back.

Ms Szuty said that she was uncomfortable with a total user pays system. That seemed to contradict what her colleague Mr Moore said. He was totally comfortable with the user pays system. Ms Szuty then drew a very long bow when she drew an analogy between the new system that ACTEW is proposing and the poll tax that was proposed in the United Kingdom. I did not look into the poll tax very closely at the time, but I note that it perhaps saw the demise of Prime Minister Thatcher, which some people in the UK might have thought was a good thing.

Ms Szuty was also very supportive of community consultation. Over the past 18 months I have been delighted with the way in which ACTEW have consulted on a number of occasions through their community consultation process. I think that is good. I also note that very few municipal councils that I am aware of have gone through that community consultation process. Most do what they want to do, and so be it.

I found one thing Ms Szuty did difficult to comprehend. She put so much emphasis on her advice from an independent expert; but, when asked who that person or organisation was, she would not name them. I disagree with Ms Szuty on one thing. I am aware of the company called Quadrant, because I used them from time to time in a prior life, before coming to this place, and I have used them since being here. In my opinion, the Quadrant group is one of the most professional and one of the most innovative teams of researchers that I have come across. Mr Lamont expressed concern about Ms Szuty's lack of willingness to name the source of her independent advice and drew various analogies. I must admit, Ms Szuty, that it is like the old advertisements for Colgate toothpaste. Someone in a white coat would say, "Independent university tests prove that something or other has more fluoride". Mr Stevenson, settle down. Do not get carried away by my mentioning the word "fluoride".

Mr Lamont also mentioned the rigorous community consultation process that ACTEW went through. I must admit that they did. He mentioned community acceptance. There is no doubt that not everybody in the community is going to accept anything that changes something that has already been happening. Mr Lamont made some gratifying comments about public tenants and expressed a view that perhaps all tenants - and I stress "all" - ought to be paying their water bills. As far as I am concerned, there is little or no incentive to conserve water if you are not paying the bill. If somebody else is paying the bill for you, there is less incentive for you to save water. Perhaps in one sense Mr Moore and Ms Szuty are right. If ACTEW had said, "We agree that there is very little incentive unless you are paying your own water bill", then perhaps all people in this Assembly would have been more inclined to accept what they had to say.

A lot has been said about private versus other landlords. I agree with most of what Mr Lamont says. Yes, it would be good if private landlords were able to bring down rents in accordance with the amount of water used, but then the corollary is that they could put up rents if people used more water than they were supposed to use. That was an argument Mr Lamont used. Mr Lamont also suggested that it is expensive to meter existing blocks of units, but quite intelligently - and I am delighted that he seemed to commit the Government - he said that in refurbishing existing buildings or building new ones the Government would seriously consider individual metering.

16 June 1994

It surprises me that no-one has mentioned one very important aspect of the fact that some people will be adversely affected by paying more, whether it be for water, electricity or anything else. I recall that Mr Lamont intends to amend the essential services legislation to cover those people who find it difficult to pay excess water and/or sewerage rates under the new regime. That is something that has not been mentioned, and it is a pity that it has not been mentioned.

MADAM SPEAKER: Order! It being 45 minutes after the commencement of Assembly business, the debate is interrupted in accordance with standing order 77 as amended by temporary order, and the resumption of the debate has to be made an order of the day for the next sitting.

Motion (by Mr Berry) agreed to:

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

MR DE DOMENICO: As I was saying, very little, if any, mention was made of the Government's intention to amend the essential services legislation to include water and sewerage rates. The Liberal Party has gone public, saying that we would support such amendments. We still have not seen anything before us, but we would find it very difficult not to support amendments that did that. Like Mr Moore and Ms Szuty, I am concerned that this system presently before us will tend to penalise bigger families and make it very difficult for them. I am also aware that a lot of pensioners and retirees with larger blocks and non-native gardens have said that they believe that they will be adversely affected by this sort of a system.

Madam Speaker, I still have not committed the Liberal Party one way or the other. I am very interested to listen to what Mr Moore has to say in response. I have brought up a couple of queries that I would like answered by Mr Moore and others. But the last thing I would like to say is that I believe that any change from where the system was last year is a good thing. I concede that the changes before us seem to offer a conservation incentive to 60 to 70 per cent of people, but for 30 per cent or so of users there is no real incentive to conserve water. But, once again, I think we have to make improvements in greater steps. As I said, the Liberal Party is still not convinced either way, and I will be very interested to hear what Mr Moore has to say.

MR MOORE (11.31), in reply: In rising to reply in this debate, I think it is important to note that Mr Lamont responded to only one of all the issues that I raised, and then only in part. He said that the Government would deal with public tenants who were in stand-alone housing - who, as I recall, make up less than 50 per cent of our public tenants. That is the only thing that he provided a reasonable response to at all.

Let me run through some of the issues that were raised. There was the issue of conservation. We raised the issue, and Mr De Domenico reiterated it, of when we will need a new dam. We know from recent demographic projections that another 50 years will pass before we reach a population of 500,000. Our water supply system is already designed to take us through to approximately that time, taking into account - as I argued before - the measures that we have already put into place. So Mr Lamont saying that people are going to have to pay \$200 more a year for the new dam is not an issue.

It is not an issue for now, and I suggest to you that in this city it is unlikely to be an issue for another 100 years because of what we have agreed upon in this Assembly. The tenor of the agreement is that some measures are appropriate to ensure general water conservation, so a dam is not necessary. Mr Lamont has not been able to argue anything different. He did not even attempt to, because he knows that the argument I put up is absolutely correct. Mr De Domenico knows that. His approach to the NCPA and my discussions with a former NCDC water engineer have come up with the same conclusion, as indeed does the NCDC report on the same issue.

We also raised the issue of access and equity for tenants. It is an issue that Mr De Domenico asked for an explanation of as well. There is no explanation for private tenants. We are agreed that private tenants ought to be paying for their water, but they are not metered. ACTEW has not attempted to deal with that. It is part of the stuff-up in trying to change the system. The most important question that Mr Lamont failed to answer was: Who is going to pay for this? I will tell you who is going to pay. The money is going to come out of Consolidated Revenue, and it is going to come specifically from Mr Wood's department. Once that happens, we are going to have to see a shift around of money. It is a pointless exercise.

Why is it that ACTEW are doing this? Why have they put up this system? It is quite obvious that when we reduced the water allowance from 455 to 350 kilolitres ACTEW expected, quite properly, a windfall gain from the excess water charge. Here we have the conservation argument again, but the Minister was not able to justify it. I have even accepted that there is a conservation element. I accept that part of the argument just for this debate. Under this system, in wet years when watering is not needed ACTEW will not get revenue from excess water rates, but in dry years they will. Instead of their income being even, it will go up in dry years but not in other years. It is sensible that they find a way to get a nice even revenue. I do not have a problem with that. As I said, I am quite happy to have a system that actually works, a system that is designed properly, a system that is well thought through.

I would like to deal with Ms Szuty talking about independent advice. Ms Szuty said that she had taken independent advice on this, but instead of relying on a named independent adviser she went through her argument about a survey being self-selective. Anybody who has done a basic survey knows that self-selection is part of a bias that can be built into a survey. More importantly, Ms Szuty said that it is not so much the survey as the interpretation ACTEW put on it that matters. That was the most important thing she drew to our attention. She said that the things people really wanted most of all were points Nos 1 and 2, namely, education and conservation - - -

Mr Lamont: Education and conservation, and a pricing regime that underpinned those.

MR MOORE: And the third priority was a pricing regime that underpins those things. I do not disagree with that, but we have a question about the information people were given about conservation. People are being told, "We need a new dam; otherwise, you will be paying an extra \$200 a year". Nobody wants to pay the extra \$200. Nobody wants a new dam. The real question is: Do we actually need it? The Minister has not been able to indicate to us that we do.

16 June 1994

I would like to take us next to who pays. We still have not had that question answered either. The Minister was able to say only that there is a flaw affecting public tenants and that the Government will deal with tenants of stand-alone houses. The Minister has failed to answer all of the questions.

Mr Lamont: No; you did not understand, Michael. I said that there is a flaw in the private rental market.

MR MOORE: I hear an interjection. He expects a fall in the private market. I actually made a note on that, and I missed it. He said that the way to resolve this is for tenants to go to their landlords and insist on a reduction in the rent they are paying. Oh, come on! The naivety is overwhelming. As if any landlord is going to say, "Oh, okay; I will reduce your rent because of that". ACTCOSS, in fact, gave you a suggestion on how to do it, and of course you are not prepared to do that. ACTEW were not prepared to do that, because they know that the system is fundamentally flawed. We ought not to let ACTEW get away with presenting a system that is fundamentally flawed and simply will not deliver what it promises to deliver. We are better off sitting here and rejecting it now and saying, "Go back and do it properly". If we do not reject it, they will not do it properly.

Madam Speaker, Mr De Domenico raised the issue of bigger families paying more. I left that issue alone because it had been so well canvassed in public that I felt that members were all aware of that, and I wanted to deal with a much more fundamental issue that I wanted to hear the Minister answer. But he has been unable to answer, Madam Speaker, particularly the important question about who is going to pay. Everybody is going to say that somebody is going to pay. It is Mr Wood's department, primarily. It is the government sector that is going to pay. In other words, people are going to pay in a different way - through their general rates rather than through their water rates. That is crazy. According to the Quadrant survey, the priorities were education and user pays. Let us implement user pays; but, if you do, you have to meter people. Instead, you are accepting a half-baked - in fact, a totally unbaked - system, something that is poorly thought through and that is clearly a snow job.

Madam Speaker and Ministers, if you do not support this disallowance motion you are not only allowing ACTEW to get away with it but also allowing this Minister to get away with it. Apart from a tiny part of the questions that were raised, he has not attempted to answer. He has been a total failure. If you let him get away with it now, if you let ACTEW get away with it now, then you have not set appropriate standards in this house. This matter needs to be sent back and they should come up with a decent system. As far as I am concerned, that decent system can start with a full user pays system.

Question put:

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

The Assembly voted -

AYES, 2 NOES, 15

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

Question so resolved in the negative.

PUBLIC SECTOR - STANDING COMMITTEE

Appointment

MR KAINE (11.43): Madam Speaker, I move the following motion, which appears under my name at item No. 2 under Assembly business on the notice paper for today:

That:

- (1) a Select Committee on the Public Sector be appointed to examine the implementation of the *Public Sector Management Act 1994* and any associated legislation with particular reference to:
 - (a) the public interest;
 - (b) the independence of the Director of Public Prosecutions and the Legal Aid Commission;
 - (c) ACTEW; and
 - (d) any other related matter;

16 June 1994

- (2) the Committee be comprised of one Member to be nominated by the Government to be notified in writing to the Speaker, one Member to be nominated by the Opposition to be notified in writing to the Speaker and one independent Member to be notified in writing to the Speaker;
- (3) two members of the Committee shall constitute a quorum of the Committee;
- (4) the Committee shall report from time to time, with the final report to be made by 17 February 1995;
- (5) if the Assembly is not sitting when the Committee has completed its inquiry, the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing and circulation;
- (6) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

Madam Speaker, I seek leave to move the amendments to that motion that have been separately circulated today.

Leave granted.

MR KAINE: I move:

Paragraph (1), omit "Select Committee", substitute "Standing Committee".

Omit paragraph (4).

Paragraph (5), omit "inquiry", substitute "consideration of a report".

Members will know that, when the select committee on the public service tabled its report on Tuesday of this week, that committee ceased to exist. One of its recommendations was that, because there are so many major matters outstanding the ramifications of which will persist for some time during the implementation of the legislation, another committee be set up to oversight that implementation on behalf of the Assembly. Since the original committee was a select committee, my notice of motion consequent upon that recommendation was that another select committee be established. However, the Government has since indicated that they would be happy for the committee to be a standing committee rather than a select committee; hence the amendments to my original motion that appear before you, which, if passed by the Assembly, will create a standing committee to deal with these matters.

Madam Speaker, the arguments do not need to be stated at great length. Those who have read the report, which is still to be considered by the Government and by the Assembly, will be aware of the nature of the concerns that were put to the committee and which, I think, will have longstanding ramifications when the legislation is put into place. I think it is appropriate that a committee of this Assembly should accept the responsibility of oversighting that legislation, when it is subsequently passed, to ensure that the best interests of the community are taken into account and to inform the Assembly from time to time of matters that it has taken under its terms of reference and considered in detail. I commend the motion to the Assembly.

MR BERRY (11.46): Madam Speaker, I rise to indicate that the Government will agree to the amendments and to the motion. Mr Kaine has put it quite succinctly, but I should add that it is important that this committee have the standing required in the community to ensure that the community is satisfied that there is proper scrutiny of the Public Sector Management Act. Much debate is yet to be heard on that subject; but this committee will serve a useful purpose in the scheme of things, so the Government will be supporting the motion.

Amendments agreed to.

MADAM SPEAKER: The question now is: That the motion, as amended, be agreed to.

MS SZUTY (11.47): Madam Speaker, when I spoke to the report of the select committee on the ACT public service, I emphasised the importance of a committee of the Assembly having an ongoing role in overseeing the transition to a separate ACT public service. Mr Kaine's motion is about the formation of that committee. It has been suggested that the committee could also adopt a broader brief to examine matters of public sector reform, and that may well be an issue that the committee, once it is established, can look at. Mr Moore and I have discussed the position of the Independent member of the proposed committee. While I think it is fair to say that we both have a genuine interest in public sector reform and the important transition to a separate ACT public service, we have agreed that I will nominate for membership of the committee. My membership of the committee will continue the role that I have had for almost 12 months now as a member of the select committee on the ACT public service. I see it as useful for the Assembly to have me continue my association with these issues.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (11.48): Madam Speaker, I want to re-emphasise a number of points. The first is that the amendments that have been moved and accepted create a standing committee of the Assembly. It is appropriate, in my view, that it be a standing committee, to send a quite clear message to us as an Assembly but certainly to our Government Service and the wider community that this Assembly treats with due process the questions of administration of our public service. It should be an ongoing function of this Assembly to review change which governments initiate within the government sector and to oversight the period of transition to a separate ACT Government Service. The maturity of the Assembly over the five years since self-government has been significant, as the maturity of our own service from 1 July will be.

16 June 1994

A standing committee, a permanent committee, of this Assembly sending that clear message is an appropriate way for us to proceed to deal with the issues associated with a separate service. A number of the recommendations made in the select committee report can then be followed through by the Assembly and tracked and traced, and the Government can be held accountable on those matters and any other matter they may bring to the Assembly. It is appropriate that it be not a select committee but a standing committee of this Assembly, so that Territory residents can rest assured that as an Assembly we have a process which holds the Government accountable and holds our Government Service accountable.

MR MOORE (11.50): Madam Speaker, I considered moving an amendment to suggest that the motion should specifically include public sector reform, but I think that is covered by the words "any other related matter". I hope that the committee sees part of its role as being the examination of possible public sector reform. Having the normal powers of a standing committee, the committee, I am sure, will have the opportunity to take on what it sees as most appropriate and to deal with those issues. I wish it the very best, and I look forward to seeing reports of this committee presented to the Assembly.

Motion, as amended, agreed to.

SOCIAL POLICY - STANDING COMMITTEE

Report on Early Intervention Services for Children

MS ELLIS (11.51): Madam Speaker, pursuant to order, I present the report of the Standing Committee on Social Policy on the inquiry into early intervention services for developmentally delayed and disabled children, together with extracts from the minutes of proceedings. I move:

That the report be noted.

Madam Speaker, this is a difficult and emotional area of social and community need; but the Social Policy Committee exists to look at these issues, and I can assure the Assembly that it does so with great enthusiasm. Families who have a child with a disability or a child who develops a disability or a developmental delay have additional pressures and demands and expectations upon the parents, the family collectively and, of course, the individual child. As a society, I believe, we are bound, morally and in any other way, to do what we can to support, to assist and to care for these families as their need requires. Early intervention services are integral to the well-being of these families. As I have said in the preface to this report:

Early intervention is a developing area. The disability service area in Australia is still working through the transformation from institutionally based to community based services that has occurred in preceding decades. That same time has also seen great developments and increases in the quality and types of early intervention programs.

When this reference first came to our committee, the question of conductive education was a primary force behind the reference. I must confess that, while agreeing that conductive education should be examined, I was anxious, as chair of the committee, that the entire area of early intervention services be examined, and I am very pleased that we have done that. The committee looked carefully at the whole area of early intervention services, or EIS, and I believe that we have concluded with a report that is a constructive document, giving suggested directions for the continuing development of services in this area.

I would like to briefly touch upon the more major findings of the committee and, while doing so, urge interested people to read the entire report carefully, not just the recommendations. Our thoughts and considerations which led to the recommendations are very important in looking at the whole question before the committee. Before proceeding I must acknowledge the dedication and the professionalism of those professionals working in this area. Our evidence, our visit to the EIS centre at Holder and our discussions with individuals and organisations all conclusively led to praise of those delivering the service. The frustrations and any criticisms were directed at the structure under which these services operate and the need to look carefully at the level of resources available for those service deliveries.

We do not agree that the current situation where three different portfolio areas have jurisdiction over parts of EIS should continue. We also do not believe that the Department of Health is an appropriate area for administration of EIS. As stated in paragraph 3.14 of the report:

The Committee considers that the proper responsibility of the Department of Health is related to illness and that most children's services, including most early intervention services, are not directly related to illness.

So the recommendation in paragraph 3.15 is made, namely:

The Committee recommends that responsibility for all children's services come under a single administrative unit which is not in the Department of Health.

We have recommended this for all children's services, not only EIS. The committee believes that an overall view and strategy for children's services should be considered in the future.

Many parents advised the committee of their frustrations in attempting to see their way through the future for their child. They believe, and we agree on the evidence, that services and administration are currently fragmented and require coordination. The parents believe that their child should be seen as a whole being, not - as was put to us - as a leg problem, a speech problem or another problem, by different people at different times. A holistic approach with a simple line of communication is badly needed. We believe that a case management approach, with a case manager involved, should be used in every case where this level of coordination is required. Recommendation 4 in the report states:

16 June 1994

The Committee recommends that the ACT Government increase its funding for early intervention services to a level where they can meet at least the basic therapy and respite care needs of their clients.

In reading that recommendation, it is important that I bring people's attention to paragraph 3.51 of the report, which preceded that recommendation in the body of the report. That paragraph reads:

The Committee is loath to make recommendations in relation to increasing funding as it is aware of the budgetary restraints of the ACT Government and that it is not possible to put more money towards every worthy cause because to spend more money in one area means spending less somewhere else. However, the Committee considers that situations such as children missing out on essential therapy for months at a time because the Department cannot afford to replace a therapist on leave are intolerable.

The committee heard evidence from parents advising us that, unfortunately, it can and does happen that a child's appointment with a therapist is cancelled for acceptable reasons such as sick leave, holiday leave and so on but also, in cases, for more predictable reasons such as maternity leave. Less than satisfactory arrangements are made in some of these cases, and more often than not the child's appointment is delayed, not replaced or whatever. The committee was advised that in these cases replacement staff cannot always be paid for or be afforded. This situation is not satisfactory.

MADAM SPEAKER: Order! The time for Assembly business has expired.

Motion (by Mr Berry) proposed:

That so much of the standing and temporary orders be suspended as would prevent Ms Ellis concluding her speech.

MR MOORE (11.57): More members than Ms Ellis would like to speak on this issue. A motion to allow members of the committee to address the issue would be a sensible way to proceed, although I suppose that we can adjourn the debate. On the basis that we will adjourn the debate, I withdraw my objection, Madam Speaker.

Question resolved in the affirmative, with the concurrence of an absolute majority.

MS ELLIS: I understand that we may not have certain types of therapists thick on the ground, and interim staff arrangements may be very difficult to arrange, but it should not be a question of cost. These appointments are an important part of a family's handling of their situation as well as of importance to the child in question. We should really see a system responsive to the client, not - as it appears to the committee - responsive to the administrative possibilities.

Madam Speaker, the other major area of concern was conductive education. We have recommended that the Government provide funding for a pilot program run on the principles of conductive education. Professor Alan Carmichael, former chair of the National Health and Medical Research Council Child Health Committee, was in Canberra briefly towards the end of our inquiry. Mr Moore was able to meet with Professor Carmichael, on behalf of our committee, to discuss in more detail the NHMRC report on conductive education and its applicability in Australia. Mr Moore, in his address to this Assembly on our report, will on behalf of the committee go into detail about our considerations of the question of conductive education. Time does not permit me to go into quite that detail at this point.

Madam Speaker, as I have often said in this place, I believe that our committee system works well. This report is a great example of that system. I want to record my thanks to Mr Moore, Mrs Carnell, Mr Cornwell and Mrs Grassby for the manner in which this committee was able to examine this very important area of social policy. As a committee, our only intent was to fairly examine the reference before us. Given the attitude of the members of this committee, I believe that we were able to do that. I also thank all the members of the various areas of the bureaucracy who gave of their time and efforts in assisting us, particularly the people at the EIS centre at Holder. Russell Keith, the secretary to the committee, and his predecessor, Kim Bond, must be acknowledged for their most professional and proficient work on both our deliberations and our report. But, most importantly, Madam Speaker, we must acknowledge the input by the families and the individuals who gave us their stories. They have enough on their plates, as I am sure we all agree; yet they were only too willing to bring us their experiences. I know that I am speaking on behalf of all of the committee members when I record our thanks to them.

Madam Speaker, although there are some criticisms of the current system in this report, we must acknowledge that the evidence before the committee during our inquiry was to the effect that a lot of the criticisms that we have highlighted have, in fact, already started to receive consideration by the areas of the bureaucracy concerned. I compliment them on the work that they are currently doing to improve those areas of deficiency. By the same token, the committee, in dealing with this issue, felt bound to make some constructive critical comments. We were not on a witch-hunt to point out errors in the system but wanted to highlight the areas where more responsive care and resources were required. I am hopeful that the report will be viewed in that light by everybody concerned. I have no hesitation at all in recommending this report to the Assembly, and I very much look forward to a healthy and good debate within the community at large on the findings that we have made within the report.

MADAM SPEAKER: In accordance with temporary order 77, the resumption of this debate will be made an order of the day for the next sitting.

16 June 1994

LEGAL AFFAIRS - STANDING COMMITTEE
Report on Statute Law Revision (Penalties) Bill 1993

MR HUMPHRIES (12.02): Madam Speaker, pursuant to order, I present report No. 4 of the Standing Committee on Legal Affairs entitled *Statute Law Revision (Penalties) Bill 1993*, together with extracts from the minutes of proceedings, and I move:

That the report be noted.

Madam Speaker, I shall speak to this report only briefly because of the other matters on the Assembly agenda today. The Statute Law Revision (Penalties) Bill was presented by the Attorney-General on 16 December, and it made many large changes to the structure of penalty provisions in ACT legislation. It was presented at the same time as an Interpretation (Amendment) Bill which has the effect of putting penalty units in place in ACT legislation. Of course, penalty units are a convenient device to ensure that, where inflation has some effect on the level of penalties provided for in legislation, these levels can be increased by simply amending the amount of the penalty unit and that has an effect across all legislation that the Territory has in force.

The Statute Law Revision (Penalties) Bill was designed to set in place penalty units in a whole range of ACT legislation but also to revise the level of penalty provided for in many ACT Acts. It was particularly that second question that the Legal Affairs Committee focused some attention on. The committee decided to review the penalties provided in the 106 pieces of legislation, a very large number of separate items of legislation, that had to be examined by the committee, to ensure that these changes were appropriate and met standards which the community as a whole would expect to be applied. I think it is true to say that the committee applied standards to ascertain whether consistency was employed, whether the fines were appropriate and whether they were equitable. For the most part, I must say that we found that this was indeed the case - that, although many changes were made, they reflected the nature of the offences which were covered by the legislation and the extent to which those particular offences might have changed in the course of the last few years.

It is important to understand, Madam Speaker, that these matters can cause some concern in the community. In the period after this legislation was tabled there were a number of letters to the editor of the *Canberra Times* in which concern was expressed about the level of penalties in ACT legislation. Mrs Linda O'Donoghue, for example, wrote a letter to the *Canberra Times* in January of this year in which she said:

The standard fine for a kid casually selling cookies door-to-door for pocket money would be \$5000 (unlicensed hawking) ... One incongruity I find especially grim: the fine for having up to five marijuana plants is to remain a paltry \$100.

That was only one of a number of pieces of correspondence and other representations which gave rise to concern about what the penalties would be in particular pieces of legislation. The committee examined all of those and, as I have indicated, found for the most part that they were appropriate and equitable across the board. It is important to

remember that all penalties are maximum penalties. Whereas it might be inappropriate to fine a boy scout \$5,000 for selling cookies door to door, it would be appropriate in certain circumstances to fine somebody who repeatedly and egregiously breached this law in a manner of that kind.

Madam Speaker, the point that was made by correspondents to the *Canberra Times* and others about this whole change is that there is a need for some level of, as it were, advertising of how the penalty principles applied in legislation would affect the way in which certain fines are imposed. Indeed, the explanatory memorandum which the Attorney-General presented at the time contained an addendum entitled "The Penalty Review Principles". These principles were applied, more or less, in the application of the changes made in the schedule to the Bill. The committee's view was that, in fact, these principles were quite important and ought to be publicised, especially by having them actually incorporated in the legislation as a preamble. Madam Speaker, that will go some way towards giving people some idea of the basis on which the Government and the Assembly as a whole are applying certain penalties.

Madam Speaker, a number of other pieces of legislation within the schedule to the Bill are affected by changes upon which the committee has commented. I think that the Assembly will need to consider those when it comes to debating this Bill at the detail stage. I acknowledge that there will be debate about some of those points, but the Assembly can debate them at the appropriate time. It is usual to thank the committee secretary when one is presenting a report of this kind. I wish to thank our temporary secretary, Mr Power, who provided some assistance in the preparation of this report; but the report, in fact, was prepared in the absence of a permanent secretary by the committee itself. I, therefore, want to thank particularly my secretary, and my wife, who typed up this report for me, not having any particular assistance to do that. Madam Speaker, I commend this report to the Assembly.

Debate (on motion by Mrs Grassby) adjourned.

ADMINISTRATION AND PROCEDURES - STANDING COMMITTEE Report on Standing Orders 200 and 201

MADAM SPEAKER: I present a report of the Standing Committee on Administration and Procedures entitled *Standing Orders 200 and 201*.

Motion (by Mr Berry) agreed to:

That the report be adopted.

16 June 1994

TOURISM AND A.C.T. PROMOTION - STANDING COMMITTEE
Report on an International Airport in the ACT

MR WESTENDE (12.09): Madam Speaker, I present the report of the Standing Committee on Tourism and ACT Promotion concerning an international airport in the ACT, and I move:

That the report be noted.

Madam Speaker, it is with considerable pleasure that I stand before the Assembly to table the report of the Standing Committee on Tourism and ACT Promotion titled *An International Airport in the ACT*. It has been an honour and a privilege to chair this standing committee on a number of issues; but there has been no issue more important, in my view, than this one. This is an issue where Canberra, the nation's capital, has the opportunity to rightfully enter the international arena, to stand up and be counted, to assert itself as the capital of Australia. Madam Speaker, in my opinion, we need an international airport. We must have it.

Madam Speaker, there have been many discussions in this Assembly about how Canberra is perceived by the rest of the nation and about how we who live here perceive our city. The common thread has always been that we all love our city. We are very proud of it. Many have said that it is the best kept secret in Australia. You might as well say that it is the best kept secret in the world. We have from time to time been very defensive about our city and Territory when it has been the subject of ridicule on national television. In many ways we have had to get used to Canberra being a place that people love to hate.

Irrespective of its close identification as the home of politicians, we have all been embraced in the widespread derision of the city we love. We have been collectively grouped by our fellow Australians into a classification of a fortunate, lucky, privileged community. Nevertheless, our fellow Australians like to make the trek here to experience the so-called privileged lifestyle, and I believe that they change their views once here and they go away pleasantly surprised and proud of their national capital.

Madam Speaker, if we want our fellow Australians to respect our town, our home, we who live here have to appreciate that this is in fact the nation's capital, and we have to play a big part in projecting that image. We are, if you like, partly the custodians of the national capital. If we want to shake the shackles of the great white house on the hill, we have to stand up strongly as a community in our own right and promote our own image of the city. After all, this Assembly is testimony to our position in this regard.

We have to get out there and say to the rest of the country and the world, "This is what we are. We are not a place simply for politicians. We are the nation's capital, one of the most beautiful cities in the world, located in a region unequalled in its diversity and beauty not only in Australia but also possibly in the world". This is not just the rhetoric of one who may be biased; it is a fact. Let us not be apologists and wimps in expressing how we feel about this city. Let us shout this fact from the rooftops, from the hilltops. Let us take every opportunity to state our case.

If we really believe that we have something to offer, let us be bold about it and, Madam Speaker, I hasten to say, let us not get in each other's way in doing so. There is one thing I feel sure that we can all agree on in this place, and that is that we want Australia to prosper, to provide jobs and to have a prosperous and guaranteed future for the generations to come. Madam Speaker, this will not come knocking on our door. We have to go out there in the real world, the competitive world, and go for it hard and strong. We have to be proactive, not reactionary. We have to be on the offensive, not the defensive. We have to be visionary, not closed and introspective.

Madam Speaker, this is why I am so adamant that we need an international airport in our international city. The national capital of any country, more than any other city in that country, must lay claim to being an international city. It is inconceivable that, with only six-and-a-half years to go to the turn of the century, Australia's national capital has no direct international transport connection. I often wonder what the rest of the world thinks of that. Rather mickey mouse, I should think. Perhaps our low profile, our virtually non-existent projection of our national capital to the rest of the world, has some important repercussions in terms of how seriously the rest of the world takes the whole country. In other words, any country that has such a pitifully small perception of its national capital must not have much going for it. No wonder there is the perception overseas that kangaroos hop down our main streets.

Mr Humphries: They do sometimes.

MR WESTENDE: They do sometimes. Madam Speaker, we have to start thinking big - and I mean big - not only in Canberra but as a nation. However, let us set some good examples in Canberra. I welcome the developments on the fast train between Canberra and Sydney. I welcome the proposal for a tollway around Lake George. This is all good stuff. It is in the realm of big thinking. But infrastructure must always precede growth. Infrastructure is the enabling force for growth. The infrastructure development must also be forward thinking. It has to allow for growth. Indeed, it has to be an incentive for growth. It has to motivate and to inspire growth. It has to be the seed for growth.

When it comes to the chicken and the egg analogy, which we talk about in the report, let us stop pussyfooting around and decide that the egg came first. Let us get on with it. It is easy to sit around and wish for something good to happen, such as a sudden surge of international tourism, a demand for Canberra or a rush of investment and business interests in the ACT. But this simply will not happen unless we market ourselves and provide for international facilities. This will happen only when the right environment is created for it. The ACT Government, in association with the private sector, has to take the bold initiatives. It has to bite the bullet. Madam Speaker, we need an international airport in the nation's capital.

Madam Speaker, I have spoken in generalities, and admittedly I have put the emotional view. But it is about time, I believe, that we all became a bit more passionate about what we want to see and then developed the conviction to follow it through. What of the specifics that have been brought out in the report? I believe that the report provides a very comprehensive overview of the issues involved. It has canvassed the views of a wide cross-section of the community involved with the tourism industry, planning issues and the development of the economy generally in Canberra and in the region.

16 June 1994

Overall, the hearings of the committee and the submissions received revealed strong support from the tourism industry for an international airport in Canberra. Although in many ways there was a dilemma, the general perception was that the international airport needed to be established before we could expect the demand to come on stream.

One aspect that was very clear from the committee's investigations was that the tourism dollar from overseas visitors to Australia was on the increase, and the forecasts are very positive. For Canberra to take some share of this, something has to be done to increase our promotion and improve our profile. An international airport would go a long way towards achieving this. It was recognised that an international airport will bring tremendous economic benefits through tourism, particularly in increasing employment opportunities. This is even more significant, considering that Canberra has the highest percentage of youth unemployment and that tourism is the biggest employer of young people. It is also significant, given the current limited employment options in the ACT, where 50 per cent of people are employed by government and 50 per cent by private enterprise, whereas in other States 75 per cent of people are employed in private enterprise.

The committee had the benefit of a report prepared by Airport Planning Pty Ltd, or Airplan, for the Chief Minister, which formed part of the Government's submission to the committee. Airplan had undertaken considerable study into a Canberra Airport international facility. Its report is a very comprehensive document and was very useful in the committee's deliberation. The Airplan report proposes five phases for developing an international airport for Canberra. The Airplan study indicates a time schedule to upgrade the airport to an international facility. The committee considered that there could be significant savings in developing the airport by combining phases 1 to 4 and thereby expediting the schedule.

In terms of straight capital outlays, it could be much cheaper to develop the airport to international status capable of handling B767 aircraft operating directly to and from Asia and the Pacific Rim regions as soon as possible. The committee considers that this possibility ought to be studied in more depth to determine the rate of growth in traffic which could be expected from a more vigorous tourism promotion of the ACT and the region. The committee therefore recommends that the Government undertake a further detailed cost-benefit assessment of the proposed international airport.

The committee believes it to be a top priority to market the ACT and the region overseas through Partnership Australia. Through Partnership Australia, the Australian Tourism Commission and the State and Territory tourist commissions promote Australia overseas as a tourist destination. I am happy to note that in the Chief Minister's budget speech she said that we will be joining Partnership Australia. The committee notes that the ACT is the only State or Territory that is not a member of Partnership Australia, and it recommends full membership.

Madam Speaker, to hark back to the chicken and egg situation, I believe that we must promote Canberra very vigorously as a direct destination and at the same time provide the infrastructure to make it possible for overseas airlines to fly here direct. If we do not do both of those things well, I believe that we will find ourselves lagging behind the

rest of Australia. Madam Speaker, in closing I would like to thank the other committee members for their contribution to this report. They are Ms Helen Szuty, Mr David Lamont, who was discharged from the committee on 19 April, and Mr Wayne Berry, who was appointed to the committee on 19 April. I would particularly like to thank the secretary of the committee, Bill Symington, for the tireless and very capable contribution he made. Without people such as Bill, it would not be possible for the committee to produce such a professional and well-written report. It has been said on many occasions - and I will say it again - that the secretariat of this Assembly has to be one of its great success stories. Madam Speaker, I recommend the report to the Assembly.

Debate (on motion by Ms Szuty) adjourned.

LEGAL AFFAIRS - STANDING COMMITTEE **Report on Coroners (Amendment) Bill (No. 2) 1993**

MR HUMPHRIES (12.22): Madam Speaker, I present report No. 5 of the Standing Committee on Legal Affairs entitled *Coroners (Amendment) Bill (No. 2) 1993*, together with extracts from the minutes of proceedings, and I move:

That the report be noted.

Madam Speaker, I will speak briefly to this motion. An exposure draft of the Coroners (Amendment) Bill was introduced by the Attorney-General in June last year - in fact, a year ago tomorrow - to foreshadow changes that the Government proposed to make to coronial proceedings in the ACT. There were two essential elements of this package of legislation. One was the changes to acknowledge or to pick up recommendations of the Royal Commission into Aboriginal Deaths in Custody and the second was to review the coronial operation of the Coroners Act for the first time, apparently, in the 38 years since the Act was originally put in place. The Legal Affairs Committee resolved to inquire into the exposure draft. When the Bill itself was tabled in the Assembly on 16 December last year, the committee resolved to inquire into that Bill.

Madam Speaker, as I have indicated, there are two main functions of this Bill. In particular, the role of the Bill in putting in place important recommendations of the Royal Commission into Aboriginal Deaths in Custody was focused upon. It is worth noting at the outset that historically the ACT, in fact, has a relatively good record on the question of deaths in custody. The committee was able to ascertain that in the last 20 years or so approximately six people died in custody in circumstances that were within the purview of the royal commission. It appears to be the case that, of those six people, none were of Aboriginal or Torres Strait Islander people. We, therefore, have a record which is a considerably better one than those of some other jurisdictions in Australia. However, it was, of course, important to acknowledge that we need to put in place measures to make sure that we never have a bad record in the ACT in this respect.

16 June 1994

The committee found that, for the most part, this Bill was an appropriate way of responding to the royal commission's recommendations and would be a sound way of addressing the issues, particularly in a pre-emptive fashion, to prevent there being a problem in the future in this Territory. The committee made comment on the nature of the specific provisions in this Bill which apply only to the families of deceased Aboriginal and Torres Strait Islander people and suggested that the measures in that respect were very sound measures, very good measures, but that consideration should be given by the Government to extending those provisions over a period of time to all members of the community, who of course would be able to benefit from access to such things as more involvement in the coronial process and an automatic entitlement to coroners' reports.

The other recommendations made by the committee are of a relatively minor nature but touch on such things as cooperating with national bodies such as the Institute of Criminology on the collation of information relating to coronial proceedings and continuing to work with such groups as the National Association for Loss and Grief, which expressed before our committee some concerns about the second part of the focus of the Bill - that is, the review of coronial proceedings in the ACT - and whose representations were taken on board by the Minister's department in ensuring that the process is more amenable to those who are suffering loss and grief in the process of coronial proceedings. There is more work to be done in that respect, but I am confident that the relationship between the department and that association will be a fruitful one in overcoming other difficulties that might arise in that process. Madam Speaker, I commend the report to the house and again thank those persons I thanked in respect of the previous report for their assistance in preparing this report.

Debate (on motion by Mrs Grassby) adjourned.

PUBLIC ACCOUNTS - STANDING COMMITTEE

Statement by Presiding Member

MR KAINE: Madam Speaker, I seek leave of the Assembly to make a statement on government accounting, reporting and accountability and discussions of the Public Accounts Committee in New Zealand between 3 and 5 May 1994, to present the statement and to move a motion in relation to the paper.

Leave granted.

MR KAINE: Madam Speaker, members of the Public Accounts Committee visited New Zealand during the first week in May for the purpose of meeting with government officials, professional and business organisations and client bodies of government agencies to assess the effectiveness and ramifications of the wide-ranging changes in government accounting, reporting and accountability that have been implemented in New Zealand. In the course of the three days in Wellington, the committee had extended meetings with the New Zealand Society of Accountants, the Council of Social Service, the Federation of Voluntary Welfare Organisations, a New Zealand Controller and Auditor-General, the Stock Exchange, the professor of accounting at Wellington University, the Chambers of Commerce, the senior lecturer in public policy at Wellington University, the New Zealand Treasury, the Ministry of Agriculture and Fisheries, and the Inland Revenue Department.

In addition, the committee met with the Speaker of the House of Representatives, the Hon. Peter Tapsell, and with officers of the parliament and observed a meeting of the House of Representatives Transport Committee. In all, the committee consulted with some 23 persons in the three days.

The committee has for some time been giving consideration to the question of the desirability of the ACT government accounts being presented on an accrual accounting basis. Accrual accounting is, of course, the basis upon which all Australian businesses and most government commercial enterprises are required to operate and present their accounts. Accrual accounting provides a comprehensive picture of the financial operations, assets, liabilities and performance of a business enterprise. Government, on the other hand, has traditionally operated on a cash accounting basis, with annual budget appropriations and with performance measured in terms of expenditures against those appropriations. In essence, the rationale for cash accounting is that no moneys be collected or spent except in ways and amounts approved by parliament through budget appropriations. However, it is becoming increasingly obvious that cash accounting gives mixed signals both to the government agencies which are required to work under the system and to parliaments, and there is an increasingly widespread opinion that this is not good enough. On the one hand, agencies are required to meet performance objectives with economic performance measured against expectations - in essence, using accrual methods - and, on the other, they are required to comply with the cash appropriation. This effectively means that the appropriation process determines rather than reflects criteria for agency performance.

Additionally, reporting to the parliament based on cash accounting fails to present a complete picture of government financial operations, and this aspect was exemplified in our Auditor-General's report No. 5 of 1992 on the budget outcome presentation and the aggregate financial statement for the year ended 30 June 1992, which indicated the current limitations of Consolidated Fund reporting. From the parliamentary perspective, cash accounting means that parliament has an inadequate information base from which to authorise and scrutinise government activities.

Why did we go to New Zealand? The committee has been particularly fortunate to be able to avail itself of an extended briefing on accrual accounting by senior representatives of the Australian Society of Certified Practising Accountants. As a result of this and other research on the matter, the committee had reached a stage in its consideration of accrual accounting where it judged it highly desirable that it view at first hand the operation of accrual accounting in a place where it has been fully adopted by a government. A clear example is New Zealand, which has been undergoing a comprehensive program of economic reform for the past 10 years. Virtually every sector of the economy has been subject to some change, and improving the performance of the public sector at both central and local government levels has been integral to this overall program of reform. The reform process has seen the separation of commercial activities from government departments with the formation of state owned enterprises.

16 June 1994

By 1988 the core public sector underwent significant financial management reform which has had as its aims the improvement of performance by enhancing the accountability relationship between Ministers and departmental chief executives. These reforms are based on a mix of elements, including performance goals and, importantly, reporting of actual performance against specification.

The committee took steps to ensure that it obtained a fully representative range of views about the efficacy of the financial management reforms and what they have meant in terms of accountability to the parliament, improvement in fiscal information and the effect on management and public attitudes. From our observations it is clear that with accrual accounting the New Zealand Parliament now has a comprehensive set of financial statements which gives a more complete picture of government activity than is possible with cash based accounting. The range of information for assessing the government's fiscal position has been extended and, further, of significant importance, the objectives of public accountability and usefulness of decision making have been dramatically improved by the compilation and maintenance of a more complete listing of the public assets. This has helped to ensure that public sector managers remain conscious of the need to fully document and completely manage assets under their control.

The New Zealand Controller and Auditor-General advised the committee that the adoption of accrual accounting has given a more accurate picture of agency operations and the overall financial position of the government. In particular, the controller noted a number of facets about it. It provides better information on financial viability, fiscal compliance, management performance and cost of services. It provides more accurate information on the cost of providing services, as all transactions are recorded regardless of whether cash actually changes hands. It provides better information for the management of assets and liabilities, helping to ensure that resources are allocated in a more effective and efficient manner between various competing alternatives. It reflects better the ongoing nature of government operations. It reports certain unrealised changes in the value of assets and liabilities - for example, those resulting from exchange rate fluctuations. It provides higher quality information about the financial consequences and long-term implications of government policies, and it better enables trends in the financial statements to be identified and, therefore, allows solutions to be identified and implemented more quickly. The controller further noted that there is produced a statement of cash flows which provides information needed to interpret the cash flows of the government, so that the adoption of accrual accounting has not resulted in any information loss; rather, it has provided more information upon which to assess the operations and the position of the government.

The committee notes that ministries, departments and the Reserve Bank of New Zealand are combined on a line-by-line basis and that transactions and balances between them are eliminated from the combined financial statements. State owned enterprises and other government agencies are also combined, using an equity method which records the government share of the net assets of these entities, including their surpluses and deficits. Unrealised surpluses and deficits on inter-entity transactions and balances are not, however, eliminated.

The New Zealand House of Representatives Finance and Expenditure Committee, which is analogous to the ACT Public Accounts Committee, in its 1991 report stated that the purpose of the combined government financial statements is to bring together the results of all the individual subentities so as to present a combined picture of the whole Government as a single economic entity. The combined statements showed the substance of the government's net worth and performance, seeing past the legal or administrative form. The Finance and Expenditure Committee went on to explain that the benefits of combined government financial statements are to condense a large mass of data into a single set of meaningful and useful information accessible to the members of parliament, the electorate, the media and financial markets; to provide a picture of the overall financial position or net worth of the government at particular times; to enable comparisons to be made of changes in the government's net worth over time; and to allow assessments to be made of the government's performance in its stewardship of the resources available to it.

The committee's conclusion was that the adoption of accrual accounting by the New Zealand Government has been accompanied by significant restructuring of the public sector, in many cases with restructuring preceding the changes in financial accountability. It simply was not just the introduction of accrual accounting. In the time available the committee was not able to fully consider the extent and benefits of this restructuring or of cultural change within the New Zealand public sector as a result of the restructuring of departments, but our discussions indicated that there was broad agreement that the changes had been necessary and, at least from the point of view of administrative efficiency and accountability in the provision of services, successful. The committee noted, however, some concerns that public administration has become fragmented and that because the focus of financial accountability has shifted to government agencies ministerial responsibility in relation to the activities of these bodies was less identifiable. Maybe that would appeal to our Government. The question of accountability of Ministers and chief executives of government bodies continues to be debated in New Zealand.

The committee gratefully acknowledges the assistance provided by officers of the New Zealand Parliament in arranging a program of meetings and contacts at the highest levels of government, business and social welfare. It has been of considerable value to the committee in developing a position on accrual accounting as an integral component in change aimed at enhancing accounting, reporting and accountability. The committee also expresses appreciation to the many senior executives of the bodies who so generously afforded the committee their time, their views and their expertise. Madam Speaker, the committee will report on these matters in more detail at a later date. Madam Speaker, I have tabled the statement and I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

Sitting suspended from 12.38 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Woden Valley Hospital - Bed Numbers

MRS CARNELL: Madam Speaker, my question without notice is to Mr Connolly, the Minister for Health. Minister, when you took over the health ministry you promised that after the budget you would reopen 56 beds at Woden Valley Hospital that were closed by Mr Berry before Christmas. Will you guarantee that you will open all 56 of these beds as promised? Can you tell the Assembly when this will happen?

MR CONNOLLY: Actually, it is 55 rather than 56; but never mind. Madam Speaker, as we speak moves are afoot to open some 24 additional beds. I hope that we will have them by 1 July.

Mrs Carnell: It does not sound like 56.

MR CONNOLLY: Just settle, Mrs Carnell. These include three in surgical neurology, which will clearly have an impact on waiting lists; 11 in paediatrics; four in the high-dependency unit, an area which is very important for elective surgery waiting lists; four in oncology; and two dedicated to the bone marrow transplantation service, so that in effect means six in oncology. That is 24.

Madam Speaker, as of 1 September we will have the opening of the maternity services at John James Hospital, with a total there of some 26 beds. We are not going to have a whole lot of people having more babies as a result of the opening of those 26 beds. We should not; it is a question of demand and supply, but I do not think that will occur. The people who go to John James will, by and large, be the people who were going into Woden as private patients. That will significantly free up demands there, and it is likely that some of those beds that are now maternity will be used for other purposes, particularly in antenatal or elsewhere. I want to see what the impact is as from 1 September.

The move to reopen those 24 beds will immediately bring us up to some 600 beds in Woden Valley Hospital. Calvary remains at 192. We have approved in recent months a total of some 55 additional beds in the private sector, which will take significant pressure off the public sector. When those beds come on stream we will have some 1,051 beds across the total Canberra system, compared to some 972 which we had some weeks ago. Madam Speaker, we do see a significant increase. As I say, 24 are coming on stream immediately. We will look at what is to happen when we can assess the impact of the move of maternity clients who are currently going into Woden as private patients and are likely to go into John James.

MRS CARNELL: I have a short supplementary question. Minister, do you now admit that you have broken your promise to reopen the 56 beds, and that the 21 or 22 beds will remain closed?

MR CONNOLLY: Madam Speaker, a silly supplementary question like that deserves no answer.

Education Budget

MS ELLIS: Madam Speaker, my question is directed to the Minister for Education and Training. There seems to be some confusion in the press about the impact of the budget on education in the ACT. Could the Minister please clarify the Government's position on funding for education?

MR WOOD: Madam Speaker, I would not be satisfied if there was confusion. The statement is clear, as appeared in one *Canberra Times* headline on the budget which says, "Schools Spared, Funding Steady". That is the case of the ACT budget. We are funding education this year at the same level as we funded it last year. The confusion Ms Ellis mentions may have arisen from a *Canberra Times* budget supplement heading that says, "Schools funding down by \$4m", yet underneath it the stories are exactly the same. There are two different headlines; but the stories, save for two paragraphs, are the same. We should be quite clear about that.

I suppose that it comes down to what subeditors do. I understand that journalists from time to time have the same problem when stories they submit are changed beyond recognition, or headlines that are inappropriate are used. That has been their excuse from time to time. I recall one headline last year that said, "Our violent schools", when in fact the story told how relatively non-violent our schools were. I do not attach any blame to the reporters in this case, but I think the subeditors should read the stories with a little more care to get the headlines right. Obviously, on this one, somebody had a look at it again and said, "That is the wrong headline", and put in the correct one about funding being maintained at steady rates.

Obviously, members across the way, as Government members do, understand the process which is discussed at estimates time. Questions may be asked, such as, "Why are these figures different? You say that you are spending more or less, yet the figures do not show it.", and we take the different elements of the budget, as Mr Connolly expressed it yesterday. There are changing circumstances every year, and in some years new elements are included in a budget. In this case, in education, the balances and the minuses give us that consistent but steady budget. There have been changes this year for the twenty-seventh pay. There have been changes for the separation scheme, and the cost of that and the benefits from that. There have been changes in enrolments. Enrolments at senior secondary level have declined, with the population bubble going through that system. That change, with proportionately more students at younger levels, is a saving for us. We also have had to accommodate salary increases. With these pluses and minuses, we adjust the figures between one year and the next; but the good news is that the budget remains steady.

Credit Tribunal

MR HUMPHRIES: Madam Speaker, my question is to the Minister responsible for consumer affairs. Section 192 of the Credit Act requires the Minister to appoint three people to the Credit Tribunal. That being the case, why does the Credit Tribunal consist at this time of only one person? Is this why an application for a finance broker's licence from a firm called Capital Business Services Pty Ltd, which was lodged in February of this year, still has not been considered? Does the Minister understand that his tardiness in not appointing members to the tribunal has cost this firm the ability to trade for at least the last four months? Will he apologise to this Canberra business for that delay?

MR CONNOLLY: Madam Speaker, a person, I presume from that company, rang my office this morning and screamed abuse. I presume that it was the same person Mr Humphries has spoken to. He is quite wrong in suggesting that there has been a gap of some four months in the personnel of the tribunal. It is true that for the last couple of weeks the tribunal has not been fully appointed. We did appoint a magistrate to chair the tribunal; but the appointments of the members, which lapsed some weeks ago, have not yet been clarified. They will be clarified in due course. I would expect that Mr Humphries and Mr Moore might even get a telephone call about it because, the Assembly having passed legislation which requires such appointments to be consulted on, I will be consulting them when the Government has clarified those appointments.

The gap, the hiatus, in appointments, on the information available to me, is only of the last couple of weeks. Other reasons may well have been behind a long process of scrutiny. Obviously, obtaining a credit licence is not a mere formality. There is a process involved in it. This gentleman, who seemed to be deeply agitated in his call to my office this morning - - -

Mr De Domenico: Understandably so.

Mr Humphries: I am not surprised.

MR CONNOLLY: As I say, it is not true to say that there has been a gap of some four months in the appointments and that the lack of appointments is the reason why he has not been approved. His application is going through a system. It often may take a long time to approve a company for a credit licence.

Mr De Domenico: It is the slowness of the system.

MR CONNOLLY: No doubt Mr De Domenico would expect the ACT Government to be careful in granting approvals for people who provide credit. It is a quite serious process.

MR HUMPHRIES: I have a supplementary question, Madam Speaker. Talking of telephone calls, I understand that the call this morning to which Mr Connolly refers resulted in the person calling asking who made appointments to the tribunal. I am advised, Minister, that one of your staff told him that it was Kate Carnell, and then hung up the telephone. Minister, given your inability to appoint people to tribunals to consider this application, will you give Mrs Carnell the opportunity to make those appointments? I understand that she will be able to make those appointments this afternoon, if given the opportunity.

MR CONNOLLY: No, Madam Speaker. I was present while that conversation was occurring. The abuse that was coming from the other end of the telephone was unusual. One often gets calls that are a little less than polite, but this was unusually so. The response was an attempt to explain to this individual that under a law that had gone through the Assembly yesterday it will be necessary for the Government, when it moves to finally appoint these people, to consult with members of the Opposition and the Independents, as I foreshadowed in my original answer.

Budget Supplementation

MS SZUTY: Madam Speaker, my question is to the Chief Minister and Treasurer, Ms Follett. On 12 May in the Assembly the Treasurer presented the following papers, and I quote from the minutes of proceedings of the Assembly, No. 106, of Thursday, 12 May 1994:

Audit Act - Variations to Appropriations made in accordance with 49(1) and 49A, together with a summary of all budget supplementation by program and category and section 7 of the Appropriation Act 1993-94 supplementation.

My question to the Treasurer is: As the totals of Attachment A, Program Supplementation - Summary, are incorrect, does she intend to table a corrected paper in the Assembly?

MS FOLLETT: I thought the question was going to be harder than that, I must admit, Madam Speaker. If the documents that I have tabled are incorrect, Madam Speaker, I am happy to review that situation and to correct them, and, indeed, to provide the Assembly with corrected documents.

MS SZUTY: I have a supplementary question, Madam Speaker. Can the Treasurer inform the Assembly whether the revised summary will conform with recommendation No. 2 of the Public Accounts Committee's report No. 3, "Monitoring of Budget Supplementation by the Legislative Assembly"; namely, that consistent presentation and terminology be used in the documentation of budget supplementation?

16 June 1994

MS FOLLETT: Madam Speaker, I certainly will try to ensure that all of our documentation does comply with any recommendations that the Public Accounts Committee may have made. Without having that particular document before me, I do not know whether I need to qualify that statement at all. It certainly would be my overall intention to comply. As I said to Ms Szuty, I will examine the documents. If they do need to be amended, I will so amend them, and in doing so I will look at recommendation No. 2 from the Public Accounts Committee report No. 3.

Housing Trust Budget

MR CORNWELL: My question is to Mr Lamont, the Minister for Housing and Community Services. Why was some \$9m in the Housing Trust budget not spent in the 1993-94 year, and therefore rolled over, thus giving the impression of more funding being available in this budget than really has been provided? Is it because of another payday or something?

MR LAMONT: No, that is not the reason outlined in the papers, Mr Cornwell. As I understand it, that is for works that have been committed and have been rolled over into this year. I undertake to give you a full briefing on where that \$9m came from and where it is going to.

MR CORNWELL: I ask a supplementary question, Madam Speaker. Perhaps Mr Lamont could also explain, if we have \$9m rolled over, why there is another \$280,000 to be provided under a private rental leasing project announced in the budget to make more housing available for people on the public housing waiting list. I would have imagined that that \$9m that has been rolled over could have provided some accommodation for these people.

MR LAMONT: I understand the point that you are making, Mr Cornwell. The Government has indicated that there is a range of options available to it to provide for reductions in the public housing waiting list, and I believe, as the Government does, that it is an appropriate mechanism to use in these circumstances. As I said to you in answer to your primary question, I will provide you with the full details of that \$9m and the basis upon which it has been rolled over, at the earliest opportunity, and that has to do with your availability, Mr Cornwell. I will ensure that we fit in with you.

National Exhibition Centre and Canberra Racecourse - Development Proposals

MR MOORE: Madam Speaker, my question is directed to Mr Wood. On Tuesday, Minister, I asked the Chief Minister a question on forgone betterment to the tune of some millions of dollars with reference to the Yowani Golf Club. Can you clarify to the Assembly how much betterment will be forgone in the proposed development on the leases of Natex and the ACT Racing Club in Mitchell?

MR WOOD: Madam Speaker, Mr Moore the other day claimed that there would be betterment forgone if the proposal at Yowani goes ahead. The only time that betterment would be forgone would be if Mr Moore's proposals were the ones taken up. Mr Moore's proposals would see nothing happen there. Nothing could happen there, the way Mr Moore is presenting it. If we are to get betterment it will be done in the way that is currently being proposed for consideration. That way will bring betterment to the ACT, and I think benefit to the community and, of course, to the golf club by way of development on that site. That is the only way that betterment will be applied.

Mr Moore asks about the racecourse and what is now EPIC. If there are development proposals, and I do not know that there are any, only by cooperation with the lessees would betterment be applied. We do not act unilaterally in this situation. We require the cooperation of lessees if anything is to emerge. I am not aware of any particular proposals for those two sites. I did hear quite some time ago that the racing club was speculating about some sort of accommodation along Flemington Road - accommodation suitable for jockeys, trainers and racing industry people. Apparently that did not emerge, and I do not know how serious it was. I might indicate my own point of view at this stage. If there were proposals for development in that very large area of the racecourse - it is an enormous area of open land - I would be more than interested. I think that we ought to look at better use of that very large area. As for EPIC, I am not aware of any proposals there either, although there is an area along Northbourne Avenue that could well attract some proposal or other, or a variety of proposals, and I would be interested in them. If we were able to work with both of the bodies operating those sites there would be some betterment coming to the ACT. If they did not want to do anything there would be no betterment. Mr Moore understands that but still wants to run it as a public issue.

MR MOORE: I have a supplementary question, Madam Speaker. I think the Minister knows very well that I do not advocate resuming the lease and then auctioning it, as a lease purist would expect. Rather, the distinction that I am making is between charging 100 per cent betterment and 50 per cent betterment. The Minister claimed in his reply that there would be no betterment coming from Yowani. If that is the case, can he tell us what the difference would be on the current proposal for Yowani if he was charging 100 per cent betterment instead of 50 per cent betterment and rather than resuming the lease?

MR WOOD: Madam Speaker, that seems to be a modification of point of view from Mr Moore, and if it is I welcome it. I cannot indicate what the difference would be between 50 per cent and 100 per cent, if indeed it is to be 50 per cent. At this stage I do not know what will be established.

Mr Moore: You ought to know.

MR WOOD: I am not prepared to speculate on betterment because to do so would be to speculate on what the Australian Valuation Office valuation would be, and I do not want to do that. I would not want to suggest a lower figure than we might aim for. I recall that in, I think, September last year Mr Moore gave broad support to the proposal I announced about changing the betterment system; in particular, changing the formula by which the before and after values are determined. That was a very significant change.

16 June 1994

Before that, in some circumstances, there was not a great deal of difference. Though we might have charged 100 per cent, it was not necessarily 100 per cent of very much. I do not know that increasing the 50 per cent to 100 per cent, or some figure between 50 and 100 per cent, would achieve what Mr Moore says. We are actively encouraging residential development in some parts of Canberra. As I announced last year, we did not increase the figure on a change to higher density residential to 100 per cent, as an encouragement for urban renewal. We still have that policy. I think it is entirely appropriate that we hold to that. I am certainly not proposing any variation to the betterment regime, although, of course, we monitor it closely at all times.

Senior Citizens

MR KAINE: Chief Minister, in your budget speech on Tuesday you said:

As in earlier years, I have met, and had useful discussions with, key organisations and received written submissions from others. In formulating this budget, careful consideration has been given to all the views expressed to the Government.

Amongst the written submissions that you received was a most comprehensive one from the ACT Council on the Ageing, one which generally restated the increasing need for services and facilities many times identified as being required by our ageing, and not least in two comprehensive reports from Assembly committees. In fact, the list is seven pages long. How is it that after all of that your sole recognition of the needs of the ageing is a mere \$300,000 increment to the already niggardly funding for the HACC program? Do you consider the needs of our older citizens as trivial?

MS FOLLETT: Madam Speaker, the budget in fact contained quite a number of initiatives that will be of benefit to older citizens in the Territory. Mr Kaine has referred to the increased funding for the home and community care program. In providing supplementary funds to that program, we will be enabling them to meet an increase in demand for their services. In fact, the full figure there is \$580,000 for 1994-95. Other initiatives in the budget, Madam Speaker, include the training program for carers of the aged, which Mr Kaine has overlooked. That will be developed and implemented to provide people who are caring for the aged in the ACT with an appropriate level of training. We have provided those funds in order to establish a training program. I believe that this is the beginning of what will be an effective program, and a very much needed one as well.

I know that members have drawn attention to the need of older people, particularly, in our community to feel that they are safe in their own community, and that they should not be restricted in their lifestyle by a fear of crime. One of the things we have done in this budget is to provide further funding for the integrated community safety strategy. I know that this is something that is appreciated by older citizens because that strategy does aim to reduce crime and to create a safer environment for everyone in our community. Some of the initiatives within that integrated community safety strategy

include the application of community safety principles to urban design so that the areas where people live are less conducive to crime. People can feel safer in and around their own homes. There is also provision for grants for community safety projects within that strategy as well.

I informed the Assembly earlier in the year, Madam Speaker, that the Government was commencing work on a draft three-year forward plan for older citizens. That will outline initiatives to remove barriers to access to participation by older people. Very importantly, as well, it will generate positive attitudes to ageing. Work on that draft three-year plan will be proceeding. That will be proceeding, obviously, in consultation. We have also established a family support group at the Jindalee nursing facility. The purpose of that is to provide the opportunity for carers and their families to support each other in a social and supportive forum. I think that is another important initiative.

I would like to draw attention, just briefly, to the concessions that apply also on a range of government services, because those concessions have been expanded. We have enhanced access to electricity concessions during the winter months. That is very important, particularly for people who spend a lot of time in their own homes. Concessions on rates will now be able to be retained, presuming that that is the will of the Assembly, even if people defer their rates. If people defer their rates and they are eligible for a concession, the ultimate liability is still at the concessional rate. I have asked the Council on the Ageing, by way of a special grant, to assist with promotion and with education on the benefits of rates deferral so as to advise older citizens on those matters and of the benefits to them in taking advantage of the deferral scheme.

Madam Speaker, I think that Mr Kaine is wrong to say that there is nothing in the budget for older citizens. I have not mentioned in my reply some of the initiatives within, for instance, the public housing area or the health area which, again, would be of benefit to older citizens as well. I know that Mr Kaine will continue to run this line, but if you look at what has been achieved and if you look at the social justice budget statement you will see that this Government has delivered a range of benefits to older Canberrans, and we will continue to do so.

MR KAINE: I ask a supplementary question, Madam Speaker. That was a long answer that did not say very much. Given that the financial provision for our 30,000 ageing people is less than that provided to both softball and rugby union, when does the Chief Minister really intend to confront the major issues, like the provision of convalescent care and the removal of people from our nursing homes so that the ageing people of the community can use the facilities that were initially provided for them? These are major issues, not fiddling around the fringes. They are the big ones. When do you intend to address them? In which budget year, if ever?

MS FOLLETT: Madam Speaker, Mr Kaine continues to perpetuate the notion that all old people are sick. They are not. I put it to you that there could well be many older and elderly citizens in our community who love sport, who are happy to see an active sporting program and good sporting facilities provided in our community.

Mr Kaine: Are many of them playing rugby union?

16 June 1994

MS FOLLETT: I know many old people who go and watch a rugby union game, and they like to sit in comfort when they do. I have known numbers of veteran players of a variety of sports, including golden oldies in rugby union, Mr Kaine. You ought to join them. Madam Speaker, I refuse to join in Mr Kaine's view of our older citizens as people who exclusively appear to need health facilities and health care. They do not. Madam Speaker, I have reported to the Assembly previously on the action that we are taking in relation to nursing homes. As you know, that is a matter for the Federal Government. We have recently approached the Federal Government with a view to reviewing the allocation of nursing home facilities in the ACT, and, Madam Speaker, I have reported on convalescent care as well. If Mr Kaine cares, I will consult with the Minister for Health and again address that matter at a later time.

MADAM SPEAKER: Members, I have to terminate question time at 3 o'clock, pursuant to the order of the Assembly on Tuesday.

ANSWERS TO QUESTIONS ON NOTICE

MR CORNWELL: Under standing order 118A I want to raise a matter with the Minister for Housing and Community Services. I refer to my questions on notice Nos 1265 and 1281 which were due to be answered on 21 May and 10 June respectively. Can the Minister provide an answer today? If not, will he indicate when the answer might be available?

MR LAMONT: Mr Cornwell, I do not have the details of those questions in front of me; but I will undertake to have your office contacted by close of business today, with either the substantive answers to those questions or a quite clear timeframe within which they will be answered.

APPROPRIATION BILL 1994-95

Debate resumed from 14 June 1994, on motion by Ms Follett:

That this Bill be agreed to in principle.

MRS CARNELL (Leader of the Opposition) (3.02): Madam Speaker, the main problem with this budget is that it is Labor Left through and through. It shows Labor's inability to understand the economic climate facing the ACT. It shows that Labor either is blind to the looming problems of sliding deeper and deeper into debt, of dwindling resources and overexpenditure on government services, or is wantonly avoiding facing up to the responsibilities of government. It shows Labor's belief that, if you do not do anything about looming problems, somehow they will go away. It is a no decision budget.

This budget has only one purpose, and a very short-term one at that. Its only role is to get Labor over the line at the election in eight months' time. That is why it is a Labor budget through and through, putting short-term political gain before responsible management every time. It is an irresponsible budget, one that avoids the tough decisions in case someone, just somebody, might be offended. Hence, a no decision budget - a budget that tries to keep the sinking boat steady for a short while, but at a longer-term cost to both Labor and the people of the ACT. It is a typical Rosemary Follett budget, a budget that denies the inefficiencies and wastes in its services. It is a budget totally devoid of responsible economic management. It is a desperate pitch for votes; but there is no courage, no leadership, and absolutely no vision. Certainly, it is a Rosemary Follett budget through and through.

What the Government fails to recognise is the consequences of its own projections of mounting debt. The budget deficit for 1994-95 is projected to be \$64.5m. This will be funded by drawing down reserves by \$28m and borrowing an additional \$36m. In three years' time the Government expects to have borrowed a total of \$212m, with total deficits over the five years from 1993 to 1998 amounting to a massive \$283m. The Government's own figures show that it intends no restraint. The Follett Government deceives the people of Canberra by claiming in public that it has put the ACT on a low borrowing path, while the small print of its own budget papers shows that the Government is heading down a high borrowing path. It is a Labor budget through and through.

The cost of servicing the ever increasing debt is set to double. The cost is already becoming a major burden for the people of the ACT. The Chief Minister did not tell us in her speech that the debt servicing cost will escalate from \$22.8m in 1993-94 to \$40.4m in 1997-98. That is just the cost of servicing the debt. The Government's estimates also show that borrowings of \$44m in 1997-98 will be about what it is costing us to service the debt at that stage. In other words, we are about to step onto the same debt treadmill which Victoria and South Australia are trapped on - borrowing to service debt. It is certainly a Labor budget, a Rosemary Follett budget.

Ms Follett: It is just that no-one agrees with you, Kate.

MRS CARNELL: That is what the figures show. Has this Government learnt nothing from the mistakes of Labor governments in the 1980s? There could not be a clearer demonstration of the manifest incapacity of the Follett Government to manage even its small economy than knowingly going down a path of more borrowings and deepening debt. Labor's poor management will cost our children dearly. That, of course, will not matter, provided that Labor can win an election next February, because that is all they care about. But, inevitably, Labor's massive debt burden will be borne by people in terms of higher taxes and charges and reduced services. It is happening already, but the budget does not even start to take corrective action.

At face value the Government has been able to gloss over the deteriorating economic situation because of a windfall pre-election payment of \$55m from the Commonwealth - \$55m that was not in the forward estimates. The Government's own estimate of Commonwealth funds for 1994-95 was \$519m. Now we see that the Commonwealth will pay \$574m - that is, \$55m more than Ms Follett expected. Without it, the budget deficit

16 June 1994

would have been \$120m. That shows the underlying deficit - not \$64m, but \$120m; almost double. That underscores the decay in economic management. With sound management, the unexpected \$55m would not have been spent, as Labor governments do, and certainly, Ms Follett does, but, instead, would have been used to retire debt. It will not be there next year. Indeed, the Government expects to lose \$50m in Commonwealth payments over the next three years. The failure of this budget is that it puts off any attempt to come to grips with the fact that \$50m will disappear. What will the Government do? This budget says nothing. It is a Rosemary Follett budget through and through.

Mr Wood: You said, "the Labor Left" before. The same thing.

MRS CARNELL: The same thing. Thank you. The simple unavoidable fact is that the Government is overspending, and much of what it is spending is being wasted.

Mr Connolly: So where are we going to slash, Mrs Carnell?

Mr Humphries: I raise a point of order, Madam Speaker. Ms Follett was heard in relative silence on Tuesday during her budget speech. I ask for the same courtesy to the Leader of the Opposition today.

MADAM SPEAKER: Order! I was going to point that out. My memory was that Ms Follett was heard in relative silence.

Ms Follett: I take a point of order, Madam Speaker. That is not the case. As the person who was on her feet at the time, I can assure you that I was not heard in anything like silence. I believe that it is only appropriate for us to extend the same courtesy to Mrs Carnell as she did to me.

MADAM SPEAKER: Thank you, Ms Follett. I will call for order if I believe that the noise level is getting to be unbearable. Continue, Mrs Carnell.

MRS CARNELL: Thank you very much, Madam Speaker. No real attempt has been made to come to grips with this fundamental problem. According to the Grants Commission, ACT expenditure in 1992-93 was \$93m above standard. There we are, Mr Connolly. In other words, the ACT spent \$93m more than the benchmark for Australia, and, of course, the Federal Government will base our future funding on national benchmarks. If we were sure that we were getting value for money, such overspending just might be acceptable; but the evidence is that too much of the spending disappears in waste rather than going into improved quality of services. For example, the Government will spend an extra \$14m on health over the coming year but will not treat one additional hospital patient with this funding. That is absolutely remarkable.

Mr Connolly: You know that that is not correct.

MRS CARNELL: That is correct, Mr Connolly. The Government says that it is "implementing cost-efficiency strategies", but, clearly, spending more for no improvement in service means less efficiency. Throw more money at a system for no return. That is a Rosemary Follett budget through and through. More and more Canberrans will experience longer waiting lists for elective surgery because of the Government's failure to concentrate spending directly on the need to reduce waiting lists. Thank goodness the Commonwealth Government is giving us some money for that. The budget does not fund one extra patient into our public hospital system in the coming year. The admission numbers will be kept the same as last year, even though the population is increasing and ageing. There is no way that the Government can spin that outcome as an improvement in health services. Budget Paper No. 2, page 44, tells us that health services in the ACT have an unfunded gap of \$45m and that a major effort is needed "to reform the high cost structure of Woden Valley Hospital to enable resources to be directed to improved quality in health and other services". There can be no question that several million dollars can be saved in the cost of health services while at the same time improving quality, but the Government is not capable of making the reforms.

Turning to another area of reform, there are huge opportunities for reducing costs and improving services in public transport, but the Government does not have the inclination or the courage to make the necessary reforms. ACTION's own benchmarking study identified an annual saving of \$38m. These savings could be achieved with genuine contestability in the provision of transport services, but this Government is mesmerised by its ideology. It would prefer to forgo \$38m rather than break with its outmoded fixation on total public ownership and operation. This Labor Government should justify to the people of Canberra why it prefers to waste \$38m in maintaining its ideological commitment to public ownership of buses rather than use the \$38m for community health services, child-care, the aged, the genuine and deserving, those people who need help.

The budget shows that the Government's priorities are not only wrong but also perverse. The Chief Minister talks about social justice but deprives those most in need by denying those very services to people who need them. She locks up scarce resources in inefficient work processes and special deals for her political supporters, so the poor and the needy go without. Poor productivity in providing services has a very clear outcome: There are fewer services; their quality is reduced; the cost is higher; and those who most need them are usually the ones who miss out. That is why I say that the Government's approach is perverse.

The Chief Minister can find \$30,000 for legal fees to defend one of her Ministers, but the Council on the Ageing is not worth helping to the same extent - not even nearly to the same extent. Social justice takes on a new meaning under this Government. It means less for everyone, and much less for those without influence in the Labor Party. There is a better way, a way which provides real social justice for those most in need by being more responsive and efficient; a way which cares about people; a way which encourages innovation and rewards excellence; a way which lowers the cost of services and brings wider choice. This way starts with correcting the causes of inefficiency and

16 June 1994

waste in government. In contrast to the Government's drifting budget, which completely fails to come to grips with central problems facing the ACT economy and the needs of the people, I propose a new direction; a direction which deals with the economic problems and dramatically improves the well-being of the citizens of the ACT.

Were I bringing down the ACT budget at this time I would immediately set in place a three-year program which, in constant terms, would reduce our financing requirement to \$97m less than it would be under the current Follett Government. Under my three-year program we would be making savings of some \$73m per annum by year three, compared with the Government's projections. At the same time, we would increase expenditure in some areas to make the ACT a more attractive place in which to live and invest, and improve the quality and availability of services. My approach would produce a growing and increasingly diverse economic base on which to generate more jobs - not just training programs, but more jobs - and government revenue without increasing the burden of taxation. Our alternative budget incorporates several policy initiatives to enhance service delivery and reduce costs. Unlike the Government's budget, where the aim is merely to survive from one year to the next, it is part of our longer-term strategy to halt the decline and enter a new era of growth and purpose.

In Health, the introduction of casemix funding, by which hospitals are funded according to the number of patients they treat, would lead to savings of \$26m by the third year. More importantly, it would cut waiting lists by at least 20 per cent and virtually eliminate long waits for priority patients. Further savings would be made by sharing some resources with the New South Wales Health Department and contracting some administrative functions; expanding the use of community health centres to allow private doctors and other health professionals to operate from these facilities on a cost recovery basis; encouraging individual enterprise agreements for hospital workers and allied health professionals; streamlining the Health Department's administrative structure; and selling the Jindalee Nursing Home and building two new nursing homes, of approximately 80-bed capacity each, in partnership with the not-for-profit sector. These measures would lead to additional savings of some \$10m. At the same time our health program would spend \$4m on establishing a much needed paediatric unit at Calvary Hospital for non-critical patients and a long-stay convalescent unit. As part of our commitment to a principal hospital with a clinical school, we would also establish a cardio-thoracic unit.

Mr Humphries: Very much needed.

MRS CARNELL: It certainly is.

Mr Connolly: How much will that cost? What is your costing on that?

MRS CARNELL: I have yours - \$1.1m. In its initial stages it will treat 300 patients annually, and it will progressively expand to 500.

Mr Connolly: It is going to cost \$4m for paediatrics, but you will get cardio-thoracic for \$1m!

MADAM SPEAKER: Order!

Mr De Domenico: I raise a point of order, Madam Speaker. I am finding it very difficult to listen to Mrs Carnell because of the constant bleating of that chap over the road.

MADAM SPEAKER: Mr De Domenico, I did just call for order. Order!

MRS CARNELL: The cardio-thoracic unit, in its initial stages, will treat 300 patients annually, and it will progressively expand to 500. Independent studies have demonstrated that this unit is a medical and social necessity. The projected cost is \$1m per year, although the benefits in terms of higher quality and more timely health care will be very large indeed. The future of Canberra will depend crucially on the amount and quality of private sector investment. Government is no longer the promised land of employment. There is also less job growth in the traditional areas of retail and construction, so new jobs have to be created by new industries and businesses deciding to set up or expand in Canberra.

Business investment means jobs. Accordingly, we are developing a program specifically designed to promote the benefits of Canberra and to encourage businesses to invest in our Territory. The fact is that the ACT is in direct competition with other regions for the investment dollar, so we cannot afford to be shy in going out and convincing businesses to come to Canberra. Our alternative budget strategy therefore allocates an extra \$5m per year to a marketing and promotion campaign which combines tourism and economic development. The campaign will promote the ACT as a technology centre, and a regional centre servicing more than 600,000 consumers. We are serious about generating jobs and growth in Canberra.

As a further incentive to do business in the ACT, we will reduce payroll tax by 14 per cent. In the first instance, this will reduce revenue by an estimated \$13.4m, but it will - - -

Mr Lamont: You will reduce payroll tax by 14 per cent?

MRS CARNELL: By one percentage point, which is 14 per cent. This will generate employment and growth which, of course, leads to community benefit and, in turn, restored government revenue - something that this Government does not seem to understand. In addition, we will work with agencies such as ACTEW to develop a comprehensive incentive program, including electricity and infrastructure concessions, to encourage business set-up or relocation to Canberra.

Our commitment to improving justice and community safety is reflected in a 2 per cent increase, or about \$1m, for the police force in our alternative budget strategy - not a cut of \$1.76m, which Labor has made for the coming year. We will also make provision to reintroduce the police road rescue squad and combine it with the STAR force, although this will be offset by savings from the integration of other emergency services in one department. The alternative budget strategy allows for a contribution of \$30,000 to build infrastructure at Woden Valley Hospital, North Curtin Emergency Management Group Headquarters and Canberra Airport for a rescue helicopter. Like many items in our budget, this shows up as expenditure, but the benefits, which are outside the budget, are dramatic in quality of life to our community. These benefits are immense.

16 June 1994

We will improve resourcing for the arts and cultural community. For example, \$1.5m will be allocated to the Canberra Institute of the Arts, School of Dance and Drama. A major initiative for both businesses and individuals will be the reduction of the 3c a litre business franchise fee on petrol. That means that 3c a litre will really come off petrol prices. This will result in forgone revenue of about \$11m by year three, but it is consistent with our policy of putting the interests of the community first without making small business go broke. Our approach is to achieve a genuine and sustainable reduction in fuel prices, not a phoney one based on subsidised land rentals and at the expense of some small business owners.

Ratepayers in Canberra have felt the brunt of Labor's inability to control its spending. Rates, which were historically low and made Canberra an attractive place to settle in, have escalated rapidly as a result of Labor's inability to manage. To restore predictability to Canberra's homes and businesses, and put a stop to Labor's mind-set that ratepayers can always be socked for more, the Liberal Party has already committed itself to cap any rate increases in line with the consumer price index in its first year of office, while reviewing the method of charging rates, and that must be done.

The cost of public transport has become a serious drain on the ACT's finances. ACTION's benchmarking study, to which I referred earlier, identified many potential improvements which could be made to its operations and indicated the savings which could flow from those improvements. It is abundantly clear, from this study and other work conducted by academics and private firms, that savings of at least \$27m per year are readily achievable. To make these savings on behalf of the community, we will competitively tender and contract out the ACT's public transport services. This saving will be achieved while maintaining community service obligations. Indeed, for many transport users, the quality of service - its availability, punctuality and cost - will be greatly improved. The final major item of saving in my alternative budget is termination of the high cost services of Comcare for workers compensation. The cost is reflected in two ways - as part of departmental running costs or as inflated costs of services such as transport, electricity and water. Informal estimates conducted by government agencies and the calculations of actuaries indicate that the cost of insurance could be reduced by about \$10m if the public sector either self-insured or contracted out.

The Liberal program for reform has many other initiatives which will lead to much better use of our community resources but will have little or no impact on my alternative budget strategy relative to the Government's. In other words, they are cost or revenue neutral. For example, under our schools based management program we will maintain funding for education in real terms over the three-year period on a per capita basis. Our program for the land and planning portfolio includes provision for the establishment of a genuine one-stop shop for planning approvals. At present a significant cost is imposed on businesses and households due to the complexities and delays in obtaining approvals to build. At the one-stop shop one person would be assigned to handle all inquiries and to deal with all the procedures from start to finish. There would be a contract to complete the approvals within a fixed period, backed by payment to the consumer if the contract was not fulfilled. The impact of this program on the budget would be negligible, but the benefit to the community, in terms of both convenience and reduction in cost, would be huge.

Madam Speaker, I have briefly outlined the major differences between my alternative budget and that of the Government. My budget strategy is one of reform. It takes the important decisions that we have all talked about. It sets a new direction. It is part of our strategy to arrest the slide into debt, to go for growth and to provide employment for young Canberrans who want to stay here. It stands in stark contrast to the Follett Government's do nothing budget. Our programs have been carefully costed. They have been through a rigorous process of development since the last ACT budget, and most have been constantly refined. The principles are clear and established; but, like all good managers, we maintain an open mind on ways of doing things better.

The theme of my alternative budget is sound management. We have a three-year strategy. The programs are innovative, but we have been assiduous in balancing the books. By making major reforms to activities which are presently bleeding the public sector dry, we have been able to make \$70m worth of savings compared with the Government's estimates. However, because of the need to make up for the neglect of Labor in health, policing, arts and culture, business costs and promotion of the ACT, we plan to spend \$30m more than the Government in these areas. Expenditure is being targeted carefully to points of greatest need and greatest long-term return to the community. The main objective of our programs is to improve the quality of life for all Canberrans; in particular, to care for those in need and to establish an environment favourable to investment and growth. The two go together - something that the Follett Government does not understand. With a disciplined approach to management we can achieve in three years' time a bottom line which, in constant 1994-95 prices, is \$97m ahead of the Government's. By 1997-98 our public sector financing requirement is projected to be \$10m; but, as a result of its accumulating debt, the Government expects to be burdened with having to find a crippling \$107m. In a nutshell, that outcome sums up the difference between good and bad management.

The Follett Government's no decision budget is simply not good enough. It does nothing to overcome the reason for the ACT's decline. The budget summary I have presented this afternoon is realistic, and I stress the word "realistic", and is a far more preferable alternative than the Follett Government's no decision approach. I commend it to the Assembly and the people of Canberra, and I urge people to look at the differences. I am very upset that the Chief Minister is not here. I would like to conclude by saying how disappointed I am that the Chief Minister felt a need to send a Treasury official to my embargoed press conference this afternoon. That was unacceptable behaviour and it certainly shows how worried the Chief Minister must be and how little confidence she has in her budget.

MS SZUTY (3.32): As I have done in speaking to the last two budgets of the ACT Labor Government, I will take this opportunity to preface my remarks on the 1994-95 budget by restating the commitment to stable government that I gave to the Canberra community at the last election. This commitment was that I would guarantee stable government in a balance of power situation by guaranteeing support for the Chief Minister in a no-confidence motion, and guaranteeing passage of the supply and appropriation Bills.

16 June 1994

In this context, Madam Speaker, before speaking to the budget, I feel that I must comment on this statement made by the Chief Minister in her presentation speech:

In last year's budget the Assembly made its wishes known concerning government schooling.

This statement clearly refers to the caveat or condition which was placed on last year's Appropriation Bill when it was passed by this Assembly, a caveat which I believe reflected the overwhelming view of the community at that time that the Government must be prevented from cutting 80 government school based positions. I said during the debate on 25 November 1993 that I considered that the caveat was a way to impose a condition on the Appropriation Bill whilst still guaranteeing its passage. In my view, this clearly demonstrated my commitment to the passage of the budget during what were very difficult and unfortunate circumstances.

Turning to this year's budget, Madam Speaker, let me say at the outset that I believe that the ACT Labor Government's budget for 1994-95 is reasonable in the context of the continuing decline in Commonwealth funding. After the severe strictures imposed on the ACT by the Commonwealth in 1993-94, when general purpose grants were reduced by 20 per cent, it is a relief, I think, to see that the reduction in general purpose funding in 1994-95 over that of 1993-94 is a more manageable 5 per cent. It is important to recognise that this less severe reduction in funding results from favourable demographic trends and adjustments in the process used by the Grants Commission, and, as the Chief Minister reminded the Assembly, "until the transition to State-type funding is completed, the Territory has to cope with the most difficult financial adjustment ever demanded of any State or Territory in the history of Federation".

I note that, as a part of the Labor Government's three-year budget strategy, the 2 per cent per annum efficiency dividend is now in its third year. This dividend is expected to realise savings of over \$5m in 1994-95. Reductions in expenditure of this magnitude are obviously welcome. However, this salami-slicing approach, as the *Canberra Times* called it in yesterday's editorial, does mean that good and effective programs may be impacted more heavily than others where there is spare capacity. As was pointed out in the same *Canberra Times* editorial, it is perhaps surprising that the broad allocations of expenditure on almost all areas of government activity have been maintained relative to each other since before self-government.

This issue of the Government prioritising its objectives is one on which my colleague Mr Moore has spoken before, and no doubt will again in the course of this debate. In speaking at the in-principle stage of debate on the Appropriation Bill 1993-94 on 16 September 1993 my colleague Mr Moore said this:

The finances of this Assembly are still more or less the same, with the same set of priorities as were set for 1989. That says something particularly about the way this Assembly and the various governments have been able to readjust their own sets of priorities.

It is clear that a review of Government priorities is needed, and I welcome the Government's intention to move away from across-the-board expenditure cuts in years to come.

Mr Deputy Speaker, the community will, I am sure, welcome the fact that there are no new taxes or charges being imposed on the ACT community as a result of the Government's budget. Most ratepayers will be pleased with this result. What is of some concern, however, is the average increase in residential rates of 3.7 per cent, which is an increase in real terms. This increase in residential rates flows from an increase of 0.005 per cent to 0.990 per cent in the general rate for land in the city area, where residential property values have risen on average by 3.2 per cent. Commercial valuations have fallen on average by 4.9 per cent. It appears that this increase in the residential rate is needed to ensure that rates revenue is maintained in real terms, with the increase no doubt reflecting, at least in part, the downturn in demand for new dwellings in the ACT. There will undoubtedly be those who will claim, with some justification, that domestic ratepayers are being asked increasingly to subsidise commercial ratepayers.

The reduction in real terms in recurrent outlays of 2.7 per cent on a per capita basis is matched by an expected fall in own-source revenues of 2.4 per cent in real per capita terms. In this context of reduced income and expenditure, the Government's intention to maintain services to ACT residents without increasing taxes is commendable, although there will be some key groups in the community who will say that the ACT Government could have gone further in addressing a number of significant issues if modest increases in certain taxes and charges had been imposed.

I have one major criticism of the Government's overall budget strategy, and that is the Government's decision to continue to achieve recurrent budget surpluses to pay for a significant part of capital spending. A preferred approach, to my mind, would be to fund capital works expenditure through increased borrowings, thus enabling the recurrent budget to better meet the continuing needs of the citizens of the ACT. While speaking on the capital works program it would be remiss of me not to address the fact that this year the Assembly has been presented with a final capital works program only, and that the Planning, Development and Infrastructure Committee has not had the opportunity to review the draft capital works program as it has in previous years. Members would be aware that this has resulted from the ACT participating in the national move to the presentation of budgets before the start of the new financial year, a change which allows all those people and organisations dependent on the Territory's budget to make their plans earlier and more effectively. As the Chief Minister said:

This reform has required significant change to the presentation of budgetary information and to the timing of Assembly scrutiny and debate.

The impact on the timing of Estimates Committee hearings and considerations is one permanent effect of this change. I would expect, however, now that the change in timing has been established, that in future years an Assembly committee once again will consider the draft capital works program, as this process is significant in the perception of openness and accountability of government.

16 June 1994

Mr Deputy Speaker, while on the topic of capital works I would like to mention a few specific initiatives. Some specific initiatives in the Government's capital works program that I welcome include the playground safety program designed to upgrade existing playground facilities to meet current Australian safety standards and ensure that playground availability better reflects existing demographic patterns; the commencement of the Fyshwick high-tech manufacturers estate via the development of a master plan of the site, and the design, documentation and construction of the stage 1 subdivision; the Nicholls community house and child-care centre designed to cater for 20 children under three years and for 22 children over that age; the construction of an enclosed oval for Tuggeranong, providing high standard competition facilities for a range of field sports and including a covered stand for about 800 spectators; the refurbishment of the City Police Station to accommodate the city patrol, city crime and legal branches, and the construction of a new watchhouse; the refurbishment of Quamby as a periodic detention centre, thus providing more sentencing options within the ACT; and a new primary school with capacity for 460 primary and 100 preschool students to serve Nicholls and part of Ngunnawal.

I also particularly welcome the following capital works initiatives for the Belconnen region: The upgrade of the Belconnen interchange, in particular the provision of additional protection for passengers from wind and rain, and all-weather access from Chandler Street; the construction of a trunk cycle path along William Slim Drive and associated works; improved environmental controls at the Belconnen land fill site; and an upgraded intersection at the intersection of Ginninderra Drive and Kingsford Smith Drive.

Another issue arising from the capital works program which the Chief Minister also mentioned in her budget speech is the provision of \$2.3m, in addition to the \$5m casino premium, for the construction of a 600-seat playhouse on the existing Canberra Theatre Playhouse site. As the cost of this project has increased by nearly 50 per cent since report No. 9 of the Planning, Development and Infrastructure Committee's inquiry into the possible use of the \$19m casino premium was tabled in the Assembly on 10 December 1992, I feel sure that the committee will welcome the opportunity to reconsider the project, as suggested by the Chief Minister in her budget speech.

Mr Deputy Speaker, moving on from the capital works program, I welcome a number of the specific initiatives announced in the Government's budget this year. I regard a number of these initiatives as being very important, as they are among the areas in which I have been urging the Government to increase its expenditure since my election to the Assembly. I reiterated my view that increased expenditure was needed in a number of key areas during my meeting with the Chief Minister on 23 March this year to discuss the budget.

The specific Government initiatives that I wish to give special mention today are the indexation of the overall level of community grants to cover normal cost pressures; the provision of over \$200,000 to Youth Joblink for the provision of private sector work experience for unemployed teenagers; the provision of over \$300,000 for a pilot project intended to enhance the literacy and numeracy skills in primary school students; the introduction of mandatory reporting initiatives, initial funding being for the development

of a training package to assist its introduction; an additional \$40,000 in payments to foster carers to increase foster care rates for adolescents, a particularly welcome move in the International Year of the Family; and an additional \$580,000 for home and community care services in recognition of the increasing demand for these services.

Further initiatives that I welcome include the provision of an extra 200 additional part-time equivalent student places at the Canberra Institute of Technology; the introduction of weekly garbage services and fortnightly recyclable collections from wheeled bins provided to homes throughout Canberra; the upgrading of the science and technology areas of eight secondary schools and the refurbishing of existing school facilities; the provision of over 500 additional long-day care and out-of-school-hours care places over three years under the national child-care strategy; additional funding of \$150,000 in youth services grants to meet the emerging needs of young people; additional funds to enable the Canberra Tourism Commission to be a full partner of the Australian Tourism Commission's Partnership Australia plan, thus enabling the ACT to have better access to cooperative international tourism marketing; the establishment of the position of Victims of Crime Coordinator as a point of contact between the victim of crime and the criminal justice system; and an additional \$150,000 a year in funding for the Legal Aid Commission to enhance services provided to people seeking restraining orders and protection orders.

Mr Deputy Speaker, as I said earlier, I believe that the ACT Government's budget is reasonable. However, I have not said that it is perfect. Many community organisations, such as the ACT Council of Social Services and the P and C Council, would support my view that more could have been done. While I welcome the fact that the budget maintains funding levels for education, I believe that initiatives in government schooling could have gone further, particularly as the Government has been able to increase funding to the non-government school sector by 1.7 per cent per student. I would also like to have seen funding of further initiatives for government high schools so that greater account could be taken of the needs of adolescent students. The ACT Council of Parents and Citizens Associations in their submission to the Government for last year's budget - a submission which the council regards as still being current - recommended the establishment of the ACT's own priority schools program to address disadvantage. This remains unfunded. Drop-out rates in secondary colleges have also not been addressed. The bus subsidies for government school students attending out-of-area government schools and for non-government school students still remain. The Government says that its highest priority is education; however, this does not appear to be reflected adequately in the 1994-95 budget.

In conclusion, Mr Deputy Speaker, in my speech this afternoon I have tried to assess the Government's budget even-handedly. While more might have been done, I believe that overall the Government's budget strategy is reasonable, and I commend the Government for a number of its key initiatives which I have mentioned.

16 June 1994

Mr Berry: Mr Deputy Speaker, during the course of Mrs Carnell's speech she referred to the alternative budget. I wonder whether she would table it for us. I would like to have a look at it.

MR DEPUTY SPEAKER: She is not on the floor at the moment, Mr Berry. I can raise the matter when she returns.

Mrs Grassby: Yes, she is. She is sitting in the gallery.

MR DEPUTY SPEAKER: She is not on the floor of the Assembly at the moment, Mrs Grassby.

MR KAINE (3.47): Members, I have stood here year after year now listening to - - -

Mr Lamont: Too long.

MR KAINE: Not too long. I have a long time to go yet, my friend. In fact, I will probably outlast you.

MR DEPUTY SPEAKER: If the interjections keep coming, somebody will not be here for very long at all.

MR KAINE: I have outlasted a lot of other people, and I think I may outlast you, Mr Lamont. I have listened to the Chief Minister present a number of budgets, and those budgets have all had something in common. They all focus on the little things and they refuse to address the big things that need to be addressed in this Territory. We have heard the Chief Minister justifying a little bit of expenditure here. In fact, when I asked her a question about the ageing earlier at question time, she spent nearly 10 minutes talking about small sums of money that were being scattered around the place like pepper and salt. That is true of the whole budget. No matter where you look, there are little sums of money scattered around the place like pepper and salt, obviously aimed at pleasing certain small constituencies that may see some merit in what the Government is doing; but it fails to address the big issues, such as the restructuring that this Territory has to confront.

Year after year the Government fails to address the restructuring problem. Until it does address the restructuring problem we are going to continue to have budget deficits, we are going to continue to have budget overruns, we are going to continue to have major overexpenditures in health and education, and we are going to have, according to the Chief Minister and Treasurer's own forward projections, increasing public debt - things that we have been warned about since day one of self-government. These are things that we should not allow ourselves to get into. They happen because the Government will not confront the big issues.

The budget reply by the Leader of the Opposition today was, to me, somewhat reminiscent of a budget reply that was made in the first year of self-government in 1989 when the Chief Minister and Treasurer brought down her first budget. I made the same criticisms of that then as I have made in every year since, and I make them again.

She did not deal with the major issues then, and she is not dealing with them now. In that budget reply in 1989, almost without very much thought at all, with just a little bit of thought about what the possibilities were, I sketched the outline of a major program to restructure health delivery in this Territory. It was about 10 lines in that budget reply speech and out of that grew the hospital restructuring program - a \$166m program in 1990 dollars. That remains to this day the only major restructuring decision that has been made in this Territory by any government since we started self-government in 1989. There has been no comparable major decision about restructuring and changing the way that we do business in an attempt to achieve economies and deliver things better and at lower cost. But here we are again, just another such year, with no major initiatives.

The Leader of the Opposition came up with a three-year strategy which will totally reverse those trends in this Government's budgets that are leading us down the path to massive public debt and continuing inefficiency. So once again it takes the Leader of the Opposition to point the way for this Government. Hopefully, by February next year, this Government will be history, and the Opposition, the Liberal Party in government, will be able to get on with doing what it has always intended to do, and that is to totally restructure the way government is run, and do it better and do it cheaper.

There are some things in this budget that I think warrant comment. There is a lot of deception in it. Just look at the capital works program and you can see what I mean. The Government trumpets its proposed expenditure on its capital works budget this year, and it puts on it a figure of something in excess of \$200m, without looking it up. But that includes almost all of the casino premium funds that should never have been included in the Government's budget. That was a windfall profit over and above budget revenues. It should have been spent over and above budget expenditures for the purposes for which it was identified, and it should have been spent a year-and-a-half ago. If you take that out of the Government's capital works program it starts to look pretty sick, even compared to last year's capital works program. So here is the deception. You put all these things in there, pad them up and make the program look good.

Even beyond that, there is a statement put out indicating all of the great initiatives that are going to be taken by this Government. One of them, one of the major items of deception, relates to my own electorate of Brindabella. In this we are told that the Government is going to produce an enclosed oval in Tuggeranong. I defy the Minister to show me in there where there is one cent being spent on that project this year. There is nothing being spent on that project this year. The expenditure does not begin until the year 1995-96, and the expenditure is spread over a three-year period. Yet the Government has the effrontery, in this year's budget, to produce this as one of their budget initiatives. It is not a budget initiative at all. At this time it is a pipedream. It is a concept in the mind of some member of the Government, or maybe even one of its bureaucrats, that has found its way into the budget. So next year they will be trumpeting this new initiative. The year after they will be trumpeting this new initiative. The year after that they still will be trumpeting this new initiative.

Mr Connolly: I am pleased that you are confident that we will still be in government to be trumpeting. Thank you for that.

16 June 1994

MR KAINE: You will not be; but you will be claiming credit from the sidelines even though you, Minister, did nothing in this connection except talk about it. So we have these great deceptions. These are facts that relate to this budget at the macro level. When you start looking at the micro level the same sort of thing applies.

I come back to an area that interests me greatly, and that is the needs of the ageing. The Government pays great lip-service. The Chief Minister talks constantly about social justice. Constantly, she talks about how committed she is to satisfying the needs of the ageing. I pointed out that the submission that was put to her this year by the Council on the Ageing runs to seven pages, and the preamble to it makes the point that the resources currently devoted by the ACT Government to the ageing do not meet the need. There are waiting lists for most, if not all, government funded services which service the ageing. That is just in the preamble. Then there are seven pages of initiatives, carefully researched by the Council on the Ageing, that they believe this Government should be taking to satisfy, even in some small measure, the needs of the increasingly ageing population of this Territory.

They range from a convalescent unit which successive governments have been talking about since 1990. The Alliance Government first proposed the notion of a convalescent unit for people leaving hospital who were incapable of caring for themselves because of their frailty or who had nowhere else to go to while they convalesced. There should be a place for them to go. This relates very strongly to ageing people, many of whom are simply physically incapable of going home after major surgery, for example, and taking care of themselves. In many cases they have nobody to look after them. That was 1990. That was part of the restructuring of the health system that the Alliance Government put forward as the only major restructuring project ever undertaken under self-government.

This Government took on that project, although they did not want to; they fought it every inch of the way. Their first action after taking government was to try to knock off the closure of the Royal Canberra Hospital. Then they discovered that it was the greatest thing since sliced bread. Now you find them chortling about opening up new facilities at the Woden Valley Hospital as though this was their own idea and they thought of it all themselves. A convalescent unit was part of that. If they go back and read what I said about the hospital restructuring program in 1990, part of it was a convalescent unit. In 1994 the Council on the Ageing is still highlighting this as one of their major concerns - that there is no convalescent capability in this city. What does the Government do about it? Absolutely nothing.

Jindalee has been acknowledged for years as being totally unsuitable for the purpose for which it is being used. It was not designed for that purpose. It is unsuitable for it. Jindalee, again, was part of the proposals put forward by the Alliance Government in 1990. It was time to build some service-specific facilities for those people. In 1994 the Government still talks about it. The Council on the Ageing is still tirading, saying that it is one of the major deficiencies in servicing for the ageing. What does the Government do about it? Absolutely nothing. At least Mr Berry had the decency to talk about relocating some element of it to Acton Peninsula. That whole concept about putting anything on Acton Peninsula has been blown out of the water.

When we come to the hospice, they have had money in the budget for three consecutive budget years now to build a hospice. It still is not there. Now they are putting in \$800,000 to actually fit it out and run it for the first year. Where is it? It does not even exist yet. Another great part of the Berry-Connolly mythology is that we have a hospice. If you listen to Mr Connolly, we have a hospice because he is going to fit it out and run it this year.

Mr Humphries: It is an outdoor hospice.

MR Kaine: It must be.

Mr Humphries: They sleep under the stars.

MR Kaine: Yes, they are going to enjoy the stars and the frosts down on Acton Peninsula.

Mr Connolly: The building is there.

MR Kaine: You are hoist with your own petard, Mr Connolly. The Government staggers along from year to year. The Chief Minister put her finger on it three years ago when she said that the secret to budgeting was a nip here and a tuck there - the Follett nip and tuck budget concept - and she is still doing it. She is scattering \$10,000 here and \$50,000 there, and it just gets soaked up and is totally ineffective for almost everybody. They simply will not confront these big issues.

I am absolutely certain that 30,000 people over the age of 55 in this city woke up on Wednesday morning and read their *Canberra Times* and then retired in grief. They went back to bed, pulled the blankets over their head and said, "What the hell is the good of staying in this town? Nobody gives a hoot about us". The Government does not give a damn about anybody over the age of 55.

Ms Follett: You want to put all of them in nursing homes.

MR Kaine: If you do care, put some money where your mouths are.

Mr Lamont: You want to put them all in nursing homes. You want to pull the blankets over their heads. That is what you want to do. Let Mrs Carnell be your finance spokesman.

MR Kaine: Mr Lamont is chortling about the enclosed oval down at Tuggeranong. It does not exist, and is not going to exist this year, and probably not next year either.

MR DEPUTY SPEAKER: Order! He is not chortling, he is interjecting; and that is out of order.

16 June 1994

MR KAINE: It was a pretty good chortle. It might have been an interjection, but it was a chortle. Mr Deputy Speaker, it really is time that the Follett Government began to think ahead, to look to the future, to look at what needs to be done. They talk about making Canberra a better place. They talk about preserving all of the good things about Canberra, but they do not do anything about it. Until they confront those issues and begin to look at a long-term program of restructuring the way government does business, and then produce a series of budgets to achieve that, we are going to stagger along just like we have been doing for three years out of the last five.

Mr Deputy Speaker, today we will be continuing this discussion about the establishment of a new public service. Where in the budget is there any recognition of the fact that we are going to have a new public service, and that presumably this public service is going to do things better than it has done them under the old system? Nowhere. The fact is that they are simply going to retitling the public service, and I have said this before. Everybody will have new titles. They will all have their free bottle of wine with the new label on it, they will have their new biros with the label on the side, and nothing will change.

One would think that in creating a public service, as we are about to do, it would be created with the purpose of doing things in a different way, doing them better, reflecting efficiencies that can be pointed to in the budget, so that we can say, "This is the result of our establishing our new public service. We saved \$10m this year, or \$20m, or even \$5m". But there is nothing in here to even recognise that we are going to have a new public service. It is business as usual, which is the motto of this Labor Government. Business as usual; status quo; steady as she goes; keep the masses happy by throwing the pepper and salt around. But do not ever take a major decision to do anything, because if you do you might upset the trade unions.

Why do they not restructure ACTION? They do not restructure ACTION because it will upset the trade unions, and they will lose some of the financial and other support they get come election time. That is the only reason why ACTION is not being dealt with. It is the only reason why many other major restructuring projects that should be undertaken by this Government are not being undertaken either. It simply is not good enough. The community deserves better, and I hope that come February next year they will get a better deal because they will get a better government.

MR MOORE (4.02): There are many things in Mr Kaine's speech, Mr Deputy Speaker, with which I find myself in agreement.

Mr Kaine: That is because I am so logical.

MR MOORE: Mr Kaine interjects that that is because he is so logical. That must be the case. Yes, it is a steady as she goes budget, or, as described in the *Canberra Times*, "Don't rock the boat". Mr Kaine says that it is business as usual. Mr Deputy Speaker, I have stood in this chamber again and again, like Mr Kaine, and said, "For heaven's sake, set your priorities. Do something, and produce a true Labor budget". I do not believe that this is a Labor budget through and through; I believe that it is a bureaucratic budget through and through. It is the nip and tuck around the bureaucratic system that is there.

What Mr Kaine said is true. There has been one attempt at major restructuring, and that was the one that he made over the Royal Canberra Hospital, which was an absolute disaster. Nevertheless, it was an attempt at restructuring, and it was an attempt, in the initial instance, to actually do something. But I must say that, apart from that particular issue, it was the same story with the Alliance Government. I will come back to that when I deal with the Liberal alternative budget in a short while.

I think it is fair to say, Mr Deputy Speaker, that Ms Szuty, in her speech, raised a whole series of questions and presented a point of view that very carefully explained where both she and I are coming from. It is also interesting to note that, in the meeting that she and I had with the Chief Minister prior to the budget, we suggested that if she was going to look at an area for savings she should look at the Economic Development Division. I will come back to that later when I deal with the alternative budget. We hear again and again from the dry economic rationalists the argument that you must ensure a very tight administration, that you must ensure that savings are going to be made. What I say to them is, "If we are going to start with savings being made, let us start with your area. Let us start with the Economic Development Division. Let us start with tourism. Let us start with your support to small business. That is what you want". I am going to come back to that when I deal with the Liberal alternative budget, because what they want to do is to increase expenditure on that area. It is a question of priorities. My suggestion to the Chief Minister was that that is the area where we should decrease expenditure and basically hand it over to the business sector to look after themselves.

Before I move on to the alternative budget I want to reiterate a couple of things that were raised by Ms Szuty, and the first of those is to do with schools. We are in a relieved frame of mind, now that there is no cut to government schooling. We think that that is a good thing. But compare that to the fact that in non-government schooling we get a 1.7 per cent rise per capita. I would like the Chief Minister to explain why she set those priorities. I understand that there may be some Federal Government influence in that area. The reality is that we now see a widening gap between expenditure on government schooling and expenditure on non-government schooling, and I think that that will add to inequity rather than enhance social justice.

It is also important for us to look at the issue of health. When we look carefully at the Arthur Andersen report in terms of health - Mrs Carnell spent a lot of time talking about benchmarking, and I will come back to that too - we know that expenditure in the health area is basically at the standard level across Australia when we are talking about service delivery. It is the administrative costs in the ACT that are extraordinarily overexpended. I think it is very important for us to look at that area, and I think that the Government has not adequately addressed that with the increase in funding to Health. That increase in funding does not go to service delivery but goes instead into what I might call the bottomless pit of administration.

Mr Deputy Speaker, the other issue that I think is particularly important here is employment. We are now coming out of a recession and it is time for us to try to enhance the employment opportunities of the people of the ACT. The ACT is still primarily a public service town. It may well be that by getting efficiencies in administration we can transfer the money, and we ought to be able to transfer that money to employ people at the service end of the Government Service. Increases in efficiency do not necessarily

16 June 1994

mean that we should cut funding to the public service, as some would interpret suggestions made in the alternative budget. Mr Kaine talked about preserving the good things about Canberra; but it seems to me that you cannot continually cut and cut, as the Liberals suggest, and still preserve the good things and the best things about Canberra.

That leads me to the alternative budget that has been presented. At least we can see the Liberals' priorities. But their priorities are set to ensure that Canberra has the lowest common denominator. When you talk about benchmarking you are talking about the lowest common denominator. We do not want Canberra to be like Sydney. We do not want the ACT to be like Victoria. We do not want Canberra to match up with the dry conservative Liberal policies that are in place in other States. We want Canberra to be better. We want it to deliver services that are not available in those other States. At least there has been an attempt in this budget to do that.

What happens in Health if we use casemix? Casemix funding, in its rawest form, is the lowest common denominator style of budgeting for health. That is the reality of the system, and, yes, it will save money. That is what it will do. If you take casemix and you adapt it to suit the Canberra scene, yes, it probably has a role. My understanding, from the way he has answered questions on this issue, is that that is exactly what the Minister for Health is looking for. To adopt it in its raw form, as Mrs Carnell suggests, I think has huge limitations. The cardio-thoracic unit, which I support, will require an extra \$1m and no doubt will have some advantages for the Canberra community. Those advantages were set out by the investigation into this issue that was carried out by Dr Michael Gardner in April, I believe, and I presume that the Minister has a copy of that report. I hope that he will make it available to members of the Assembly.

Mr Connolly: I do not think anyone has asked me for it, but yes.

MR MOORE: The Minister interjects, "Just ask me for it", and that is what I am doing right now.

What are we going to do from a Liberal point of view? We are going to look for new jobs, new business and business investment, and encourage business, and we are going to throw an extra \$5m into the Economic Development Division. We are going to throw \$5m extra to small business. I see Mr Westende looking over there and thinking, "That is probably a very positive idea". But let us remember, in terms of that \$5m, that Mr Westende is sitting there and is proud, and ought to be proud, that his business has doubled its employment capacity over the last two or three years. Why? Because the business is running efficiently. We are now at a time when businesses like Mr Westende's and those which cannot run quite as efficiently and quite as competently will have the chance to thrive, because we are coming out of recession. Now is the time for us to say, "Is it good expenditure for us to continue putting money into that division?". I think we are currently expending some \$13m in that area, and the Liberals would increase it.

Add to that the notion of efficiency. They are always after efficiency, they say. Hardly did they finish talking about efficiency when they were talking about reintroducing police road rescue - doubling up on services. We already have an efficient road rescue service. Why would we double up? It is the one thing that the Labor Government did in

last year's budget that was efficient. They came down to a single system that delivers the same service. Why would you have two systems that deliver the same service, unless it was just a sop to what they see as their electoral base? That is exactly what it is - a simple sop. The group that talks about Labor giving a sop to the unions - and there is some truth in that - gives exactly the same sop to what they see as their electoral base when talking about this business of police road rescue.

The one that really tops them off is this: "We will cap rates in our first year of office". Woop, woop! Big deal! You would cap them in the first year of office and then double them in the second year of office. As if that is going to trick anybody! The Canberra community is just a tad wiser than that; just a touch wiser than that. I suggest that you provide your full picture. What are you going to do over three years if you get into government? Are you really going to restrict them or not? We find that a little bit difficult to deal with.

Then you deal with ACTION, and you talk about benchmarking once again in dealing with ACTION. What does benchmarking mean? It means the lowest common denominator. That is what you are going to do. You are going to have a bus service that will be equivalent to the lowest common denominator in the rest of Australia. Then you go on to Comcare. This is the first sensible suggestion in your budget speech. We make an incredible expenditure on Comcare. For some reason our Labor Government feels tied to Comcare. Following our estimates process last year it is quite obvious that our expenditure to Comcare is out of all proportion to what we get from it when compared with what we could get from private industry. That, I think, is the first reasonable and sensible suggestion. I think that the Labor Government could well take notice of that and allow government departments to get their Comcare equipment from wherever; it could allow the departments to buy that kind of insurance from wherever and allow competition in that area.

The Leader of the Opposition then went on to talk about school based funding. There was a little bit of noise at the time and we still have not got the paper from Mrs Carnell. She indicated from the gallery, from outside the Assembly, that she would provide it to members, and I am still waiting for it. My understanding is that she talked about retaining school based funding on a per capita basis. I want to look at what she means by that and how that is going to be used to enhance education. If you are going to use a per capita basis, how are you going to compare it with what children have available to them in the non-government sector, to ensure social justice, to ensure that, no matter what kind of wealth a parent has, a child has the opportunity to have an equivalent education? That is the fundamental thing about government education that has to be retained. I am not yet convinced that the Liberal policy, as presented by Mrs Carnell, will do that. We will give her room to expand on that because it may well have an appropriate safety net in it; and, if it does have a safety net, you have to account for what it is going to cost.

What we are talking about is sound management and the issues that Mrs Carnell has raised in her alternative budget. Within the memories of some of us sitting here is the very speech that Mr Kaine referred to before, in which he presented some alternative ideas to a budget. Within a day or so of that budget passing Mr Kaine went into

16 June 1994

government and took over that budget. He used it for the first year before they brought down their own budget. What did the Trevor Kaine, Gary Humphries, Alliance Government budget do?

Mr Humphries: Restructured.

MR MOORE: Basically, it did just a little bit of the same, a bit of nip and tuck, with the exception of the Royal Canberra Hospital, which was done on ideological grounds.

Mr Humphries: And the school closures.

MR MOORE: Then there was the attempt to close schools. But there was no attempt to sit down and decide their priorities. They did not sit down and say, "What are our business priorities about? In social justice, is welfare our priority? Where are our priorities? How will we shift money around to suit ourselves, or will we be dictated to by what the bureaucracy has provided for us since long before self-government and just do the nip and tuck?". I am afraid that, for the fifth year in a row, we have had that kind of approach. The only alternative presented came from Mrs Carnell, and what she presented to us is dry, conservative economics, primarily based on greed and looking after your own. Hence the \$5m to business and to small business.

MR DE DOMENICO (4.17): Mr Deputy Speaker, it was interesting to listen to Mr Moore. Mr Moore and Ms Szuty are two of the three most privileged people in this place because they can stand up and knock both the Government and the Opposition, knowing that they will never be in either position during their lives. Mr Moore stands up here and talks about the Liberal Party showing preference for its business mates and the Labor Party showing preference for somebody else, but he has never stood up here and told us whom he shows preference for. After what he said about the rating system, it is certainly not the area of Reid where he lives. If Mr Moore had read the budget papers and the words of the Chief Minister properly, he would know that even in the area where he lives, in Reid, there is a projected increase in rates of 19.8 per cent. Before Mr Moore stands in his place and starts to criticise an initiative that the Liberal Party at least has enough guts to put forward, he should come up with his alternative. Then he can get up and talk about ours.

Ms Follett: Where is it? It is a secret.

MR DE DOMENICO: Ms Follett keeps interjecting, "Where is it?". She should write to Mrs Carnell and perhaps we will give her a copy. That is the sort of response we always get from Ms Follett.

Ms Follett: I gave her mine.

MR DE DOMENICO: If you want one, go up and get one. I am sure that you will be pleasantly surprised.

Mr Deputy Speaker, a lot has been said about all sorts of things. The word I have heard people use time and time again is "vision". One thing I need to say is that vision without strategy is absolutely useless. Everybody stands up here and talks about vision and alternatives and all sorts of things. Not once in three years or three budgets have I heard Ms Follett talk about any strategy. Mr Kaine and Mrs Carnell were right when they said that, and I reiterate it. There is no strategy at all in what Ms Follett has said. Small amounts of money have been scattered all over the place, mainly to satisfy little interest groups that Ms Follett wants to satisfy. She has gone now. I also would be ashamed if I delivered what she did in the budget.

Mr Deputy Speaker, there is no doubt that the future of the ACT economy depends on sound management of government. There is a need for fiscal discipline - that is, the cutting of waste and cost in the public sector, and the pegging of rates, charges and taxes. Ms Follett acknowledged that by saying that there has been no increase in rates, charges and taxes in this budget. But, then again, the people in Reid are paying an extra 19.8 per cent, the people of Banks are paying an extra 12.6 per cent, the people of Conder an extra 10.78 per cent, and the people of Gordon an extra 14.65 per cent. Ms Follett talks about social justice; but, in comparison, the people of Forrest are paying a 0.54 per cent increase. There is social justice for you! The rates of a multimillionaire living in Forrest go up by 0.54 per cent while those of the poor old single mum or single dad or whatever in Banks, Richardson or Conder go up by 12.6 per cent, and those of someone living in Reid go up by 19.88 per cent.

Mr Lamont: Last year you and the Red Hill ratepayers association were screaming about the rate increases in Forrest.

MR DE DOMENICO: Before Mr Lamont interjects, tell him to read the facts. They speak for themselves. He might learn something. Mr Deputy Speaker, the ACT Government needs to analyse closely the two areas of growth for business - that is, enhancing existing businesses and attracting new businesses - and provide a diversity of business opportunities with high-quality job availability. What has the Government done about that in the budget? It talks a lot about the future of employment in the ACT being dependent on the growth of the private sector. What does it do about it? The answer is nothing. Ms Follett came in here the other day and said, "Listen, I have allowed \$200,000 for business incentive". Last year she allowed the same amount of money, but it was swallowed up within two minutes by one company, Auspace. One wonders where the \$200,000 is going to go this year, and one wonders what is going to happen when it runs out. The answer is, as usual, nothing, because the cupboard seems to be bare.

The total business environment, Mr Deputy Speaker, needs to be clearly defined in comparison with competing States. That is obvious. It is not enough, in fact it is nonsensical, to say that Canberra is a great place in which to live and work if, on the other hand, we have a high tax regime, cumbersome controls and procedures, and disincentives to invest. A good example is the ACT tender agency which was established 12 months ago and is still compiling names, products, et cetera. It does not call tenders and continues to purchase goods from outside Canberra without calling on local suppliers. When is it intended to give ACT business the opportunity to play on a level playing field and have an equal chance to quote for government requirements? Nothing was said about that.

16 June 1994

ACT taxes are amongst the highest charged in Australia. Mr Westende will compare them with other States when he has his turn to speak. We are talking about financial institutions duty, stamp duty, land rates and taxes. There is no doubt that high rates for land taxes, stamp duty, et cetera, are causing big property investors to leave the ACT market. Examples of that are the AMP Society, National Mutual, Colonial Mutual and Lend Lease. It is true that people are leaving residential property development in the ACT as well, in large numbers, and moving to developments such as Jerrabomberra Park in New South Wales. One asks why that is so. Is it because the Follett Government is doing so much for business? Of course, the opposite is true, because we are doing nothing. There is a possible loss to the ACT of businesses using diesel fuel - for example, earthmoving contractors. Who can forget the increase in the cost of diesel fuel? Businesses in the ACT are moving across the border due to the Government's removal of diesel fuel exemptions in the ACT.

This Government puts hurdles in front of businesses instead of creating the atmosphere for businesses to grow. That is what it does. What does it say that it does, though? It says that it supports the development of the business community. What utter nonsense! The ACT is the third highest taxed Territory or State for payroll tax, behind only Victoria and South Australia. Mr Westende, once again, will talk about payroll tax. He is living, breathing proof. He knows exactly what business is performing like because he runs a multimillion dollar business. He runs it very efficiently, and has national recognition for the way he does it. When he stands up he can talk about it from the coalface, not out of textbooks.

Canberra, as the national capital, should represent the whole of the nation, and it does, and we are very proud of that; but utopia, Mr Deputy Speaker, always comes at a cost. The ACT should remember that much of what is good here - the roads, the parks, the infrastructure - is a legacy from the spending binge by the Commonwealth prior to self-government. The ACT housing standards are very high. The average income is also very high. We Canberrans are, to a large extent perhaps, annual subsidy addicts. We are used to maintaining much of our economy and living standards on annual subsidies of one kind or another. But there is a high risk element to our company town economy. It is a very high risk because we have a bureaucracy and a government system more attuned to a sizeable nation state. Where in the budget have we seen any restructuring of that sort of situation? Nowhere. Where have we seen the three-year plan? Nowhere. It is steady as she goes; nip and tuck; do nothing; try to please everybody, especially six or seven months before an election.

For the overall good of the ACT economy, Mr Deputy Speaker, we must rid ourselves of the often held attitude that business as a group is possessed of some wonderful, never failing money pit. The ACT, to operate under the strong, growing and creative economy it should have, needs effective, timid and stable government. But what are we getting here from across the road? We are getting a government that panders to the pressure groups. It wants to satisfy them all the time. Mrs Carnell, on the other hand, has come forward today with an alternative way of restructuring the whole of the ACT economy and at the same time delivering services - no fewer services; the same or better services -

for less cost. People opposite continue to say, "Oh, it is too dry", "It is too wet", or whatever. Reality hurts most of the time, Mr Deputy Speaker. While other States and Territories, of both Liberal and Labor persuasion, have realised finally that we need to look very seriously at the way we spend taxpayers' money, this Government is prepared to sit there and do nothing. It is prepared to sit there and do nothing because it does not want to upset some of its mates.

Mr Deputy Speaker, the Chief Minister should have realised that Canberra has the capability to be an economic model as well as an aesthetic one. Disincentives to business in the ACT should be closely examined. What do we do, and how do we do it? Mrs Carnell has provided the alternative. There is no doubt that, under the Government's own costings - Mr Moore mentioned benchmarking studies - - -

Mr Lamont: Where? What alternative? Where is it?

MR DE DOMENICO: Under the Government's own benchmarking study, for example, for ACTION buses - - -

Mr Lamont: Where is it? Where is Mrs Carnell's alternative?

MR DE DOMENICO: The Government has recognised that there needs to be about \$38m per annum worth of savings from ACTION buses alone.

Mr Lamont: Mr De Domenico, where is the alternative?

MR DE DOMENICO: Mr Lamont keeps interjecting. Mr Lamont should leave the chamber and go upstairs and get a copy. Perhaps he will cease interjecting at the same time.

There is no doubt that over a three-year period, as Mrs Carnell has quite rightly said, there is the potential for at least \$28m worth of savings from the ACTION bus network alone. Madam Speaker, there is the possibility of even providing free student travel and still making those savings. Once again, if the Government is interested in all those costings, once they receive all the paperwork I am sure that they will realise that that is able to be done. But it needs courage, and it needs foresight, vision and a plan. We must sit down around the table and realise that unless we start restructuring some of our utilities we are going to go along the same path and do nothing. At the end, our children and our grandchildren will be left to foot the bill.

Mr Connolly, when he was here before, very early in the piece, was waxing lyrical about AAA ratings, what Access Economics were saying, and all sorts of things. Had Mr Connolly had the time to sit down and listen carefully, and had he understood what Dr David Chessell had said, he would have realised what the truth is. Dr Chessell and other commentators have said that this year the Follett Labor Government was saved by the generosity of the Commonwealth Government.

16 June 1994

That is what the Grants Commission said as well. It was saved by the generosity of the Commonwealth Government to the tune of \$55m. Figures speak for themselves. Anybody who has a look at the budget papers will confirm that. This Government has put off until tomorrow, or has attempted to put off until tomorrow, any attempt to come to grips with the future.

Mr Kaine: Why put off until tomorrow what you can put off until the day after?

MR DE DOMENICO: Exactly, Mr Kaine. There is no doubt that the level of spending is too high. We all know that. I think everybody opposite probably concedes that as well. Everybody keeps telling us that the level of spending is too high. We can do what others have done before, of course, and we will get into trouble. There is no doubt about that. Who cannot remember what happened to Victoria and South Australia? Mrs Carnell mentioned the fact that the Grants Commission has recognised that we spend \$93m more than we should. Are we getting \$93m more in services? The answer to that is no. Are we wasting \$93m?

Mr Kaine: Yes.

MR DE DOMENICO: Totally, Mr Kaine, perhaps no. But in respect of a great amount of that the answer is yes.

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.

APPROPRIATION BILL 1994-95

Debate resumed.

MR DE DOMENICO: When we talk about that we have to realise that reality is staring us in the face. The Government can sit back and do nothing, steady as she goes, and perhaps it might be successful in retaining power, and then perhaps we will continue to do nothing for the next three years, and on and on it goes. On the other hand, it can really grab the bull by the horns and say, "Listen, there is no doubt that we need to do something very dramatic - not radical, but very dramatic - in the way we handle the economy, or we are going to get into trouble down the track a piece".

Turning specifically to Ms Follett's budget and Mrs Carnell's responses, this infamous road to Damascus is something to behold. I quote from Ms Follett's budget speech, on page 9, where, under the heading "The Environment", she says:

Following successful trials of wheeled garbage bins conducted in three suburbs, the Government will be introducing later this year weekly garbage collections and fortnightly recyclable collections from wheeled bins provided to every home.

She goes on, and the last sentence is a beauty. She says:

It will be better for householders and better for the environment.

That is what Ms Follett said here in this place on Tuesday. This Damascus thing is incredible. I now read from a joint media release, dated 1990, from Rosemary Follett, Bill Wood, Rodney Falconer, Michael Moore, Chris Gosling and Julian Webb. What does that say? It says:

Big bins discourage recycling. All available evidence points to the fact that the introduction of big bins will be disastrous for recycling. It is quite obvious that the convenience of putting all rubbish in big bins results in a substantial reduction in recycling. No Government acting in an environmentally responsible way could contemplate the introduction of big bins. We totally oppose the proposition.

That is what Ms Follett said in 1990, and Mr Moore also is a signatory to that. What did she say here on Tuesday? She said, "Big bins are the best thing since sliced bread. We will now introduce them. Hey, isn't it a good idea?". Who will ever forget that wonderful photograph of Mr Stefaniak and me which put the Labor launch back to page 29 of the *Canberra Times*? When we said that we would introduce big bins we were ridiculed. No, it is this Government, Madam Speaker, that needs to be ridiculed.

This Government talks a lot about doing all sorts of things but does nothing at all. This Government is now in power and we still have a youth unemployment rate of 35 per cent. It peaked to about 50 per cent. It has hovered around the 35 per cent mark for three years now. The Chief Minister keeps talking about the fact that it is her major concern, but she continues to do nothing about it. Madam Speaker, is it four seconds that I have left?

MADAM SPEAKER: I think that is right, Mr De Domenico.

MR DE DOMENICO: I have four seconds left to say this, Madam Speaker. This budget shows no vision. It shows no strategy. Then again, it is a typical Labor budget. I have not seen one Labor budget yet that has shown any vision or any strategy.

16 June 1994

MR BERRY (4.33): I move:

That so much of the standing and temporary orders be suspended as would prevent Mr Berry from moving forthwith a motion to require Mrs Carnell to table the alternative budget mentioned in her speech.

It has been brought to my attention that a messenger was sent to Mrs Carnell's office after an invitation from the Opposition benches to request a copy. We have been denied a copy. I am forced, therefore, to move to suspend so much of the standing orders as would prevent us from getting a copy.

MR KAINÉ (4.35): Madam Speaker, I am sure that Mr Berry is only having a little bit of a joke. We are in the middle of a debate on the Government's budget. That is what this debate is about. I suggest that to suspend standing orders and to begin a debate that goes off at a tangent is merely a ploy to take the focus off this terrible budget that this Government has brought down, because they do not want to hear any more about it. I think it is a travesty. I think the motion should be put to the vote immediately and voted down.

MR MOORE (4.35): Madam Speaker, Mrs Carnell decided during her speech to present an alternative. Therefore, it is quite appropriate that we debate both issues. In fact, the message I got was that in some of the comments I made I had misrepresented some of the things she said. I apologise if I have misrepresented some of the things she said, but I also asked for a copy of this so that I would not be put in a position where I would be doing that. Mrs Carnell is not here and she has not distributed her alternative budget speech. I cannot see any possible reason why she would want to do anything else. I think Mr Berry's motion is a very sensible thing. I hope that we do not need it. The simple solution is for Mrs Carnell to walk in here and to distribute the alternative budget, her budget speech - however she wants to present it. We would then have no problem. It is reasonable in a debate. Normal debating practice is that if somebody introduces a new concept it is quite right that people who are following should have the opportunity to respond to it. It is that opportunity that we seek. If it is the case, Madam Speaker, that I have in some way misrepresented what is in it, I would be quite happy to take time to correct any misrepresentation.

MR HUMPHRIES (4.37): Madam Speaker, I seek leave to table the reply to the budget which Mrs Carnell delivered about half an hour ago.

Leave granted.

Motion (Mr Berry's), by leave, withdrawn.

MR WESTENDE (4.37): Madam Speaker, I thank Mr Moore for his kind words, and, indeed, I am going to approach this budget in the way I would approach a business proposition. Before I do that I would like to remind Mr Moore that I would agree with him that greed is a dirty word, but profit is not, because one has to be profitable to be able to employ people.

Madam Speaker, the Chief Minister recognised in her budget speech to the Assembly on Tuesday that most new jobs in the ACT will have to come from the expansion of private enterprise. Also, in her media statement on Tuesday in conjunction with her budget, the Chief Minister stated that she "continued to recognise the role of the private sector in providing job growth" and "the 1994-95 budget provides an economic environment for local business to expand and to attract new enterprises to the Territory". That is a fallacy. Let us examine her budget. Let us evaluate what she has given to the private sector. Let us see how generous or ungenerous she really has been.

One of the first things the Chief Minister says in this budget is that there are no new taxes or imposts. Even without any new taxes or imposts, the Territory's charges are, and remain, the highest oncost of any State government in Australia. If you want to study the *Australian Financial Review* of 8 February this year, it contains a very good analysis. I would commend to the Chief Minister the reading of the whole article and the comparisons. Without doubt, the imposts are the highest in Australia. Payroll tax, workers compensation, occupational health and safety and other imposts, including stamp duty, land rates and taxes, are all among the highest in the country. The Chief Minister went on to talk about how business will benefit from reduced petrol prices. I might remind the Chief Minister - she may not realise it - that most transport businesses have their own bowsers and buy fuel straight from the oil companies, and I am one of those. But she simply put 3c a litre on diesel. I cannot shop around and try to find the cheapest fuel. By the time my trucks have driven all over Canberra they have lost what they would have gained. The Chief Minister has conveniently forgotten that last year she put a 3c per litre impost on diesel. This had the immediate effect of pushing those businesses which rely on transport and on diesel across the border, because the same impost does not exist in Queanbeyan, or in New South Wales generally.

The Chief Minister talks about her industry assistance package. A mere \$200,000 has been allocated to attract businesses to relocate to or to expand in the Territory. This package, which was introduced in last year's budget with a similar figure of \$200,000, had to be topped up by \$50,000 just to keep one business in this Territory, a company called Auspace. The entire funds, as I said, were used by one company. If, as I have already pointed out, one company took in excess of \$200,000, it is certainly not hard to imagine how many, or should I say how few, you can keep here or attract here - in other words, one company.

Over the last two years we have heard a great deal of talk about the ACT Supply and Tender Agency. To date the agency, which was established two years ago, is still not operational and is yet to call tenders. The Chief Minister has issued a discussion paper on purchasing policy. The paper confirms what everyone already knows - that the Government has been lackadaisical about the whole purchasing issue. It would be a very positive sign indeed from the Government to the business sector that it means what it says if it were to actually get the program up and running. It would mean real opportunities for the local business sector; it would provide jobs for the local community; it would stimulate the economy; and it would give local businesses the opportunity to prove their worth. They do not want gifts; they do not want handouts; they want the opportunity to prove their worth.

16 June 1994

Chief Minister, every time a tender is called and is allocated to people outside this Territory the Territory loses revenue. I hope that Mr Moore is listening, because that is one area where we can really gain some of that money. The Territory loses out on revenue because most of the medium sized businesses in the ACT have to pay payroll tax, but businesses located outside the ACT do not pay payroll tax to the ACT Government. Therefore, you not only lose out on revenue but you lose out on job opportunities, and job opportunities for our youth are what we are all about. By excluding local contractors from supplying goods and services to your Government you are responsible for reducing your own payroll tax. You are also responsible for stifling employment opportunities and for not stimulating the economy.

Here comes the real crunch. What the Chief Minister should do is balance her budget. This is the No. 1 requirement of any commercial organisation, and the Government is nothing more than a large commercial organisation. Does the Chief Minister realise that in 1993-94 she spent just on \$22.8m in servicing her debt? At current borrowings that will increase to \$40.4m in 1997-98. In other words, half the current revenue from payroll tax will be eaten up just in servicing the debt that will be incurred in the next two years. Chief Minister, that is putting the cart before the horse. That is going the wrong way in creating a viable business climate in the Territory for business to create jobs.

The Chief Minister talks further about a training budget. I can assure the Chief Minister that, unless business has the financial capacity to hire more people, she can train all she likes but she will not create one job. The only way to ensure that jobs are created is to remove some of the imposts on business, such as payroll tax. In this way you will give business the capacity to hire more people. As most people in the business community are aware, payroll tax is the second highest income earner in this Territory for this Government. Although the business community would not expect such a tax to be abolished completely, it would certainly like to see it reduced gradually over the next two years. By gradually reducing this tax you will then create employment opportunities, particularly for the young, and you will be stimulating the local economy.

The Chief Minister outlined spending \$1m on tourism over the next four years. That is a mere \$250,000 per annum. If you add that \$250,000 to what the ACT now spends on promotion overseas, which is \$300,000, you have just over half a million dollars. That is just over \$500,000 for the promotion of the ACT in overseas markets. Let us compare that with the two other small jurisdictions. Tasmania, with a population of 471,000, currently spends \$1.5m, and the Northern Territory, with a population of 169,000 - just over half the population of this Territory - spends \$4.5m. You should see what tourism does for the Northern Territory. How, Chief Minister, do you really think we are going to attract more overseas tourists with such a small amount of funding? Yet tourism is the ACT's largest industry.

As I have already indicated, what we spend on tourism promotion is a mere pittance. There are businesses in this Territory, some of which are medium sized, which spend much more trying to establish an export market than the ACT Tourism Commission spends on marketing the whole city overseas. Individual companies actually spend more than that. Your own Economic Development Division, no doubt, keeps you informed of what tourism means to the ACT community and to its economy. Whilst on the subject of the Economic Development Division, perhaps, Chief Minister, you could indicate

how many businesses, if any, the Economic Development Division has actually attracted to the ACT. If the Government was serious about overcoming unemployment, particularly youth unemployment, it would approach the Federal Government about acquiring the assets of the Canberra Airport, or encourage private enterprise to do it, and create an international facility there. That would bring tourists to this town. Not only would it provide employment for the construction industry, but an international facility would automatically create employment, and tourism means jobs for youth.

Chief Minister, about a fortnight ago, I think, you called me a lame duck, but I can assure you that I have not a lame brain. Maybe that privilege belongs to somebody else. What we want, Chief Minister, is not words but action - action combined with investing in the future. Any business person will tell you that it is no good looking at today because today we are all well and alive. What we have to look at is tomorrow, because tomorrow is where our future lies. Remember the old saying, "Charity begins at home". Let us begin at home. Let us keep our business here in the ACT. Let us get ACT business growing and employing more of our young people. Let us give them the opportunity - that is all I ask for, an opportunity - to build on the future, a future with a promise of employment. Let us give our youth hope - the hope to enjoy work and a better lifestyle. We can all talk as much as we like, but that will not fix the problem. Action is what we want, not inaction. The "steady as you go" approach of the Chief Minister's budget is inaction. It is simply a case of not rocking the boat. It will not improve the business climate in this city one iota. Let there be no doubt; this budget contains nothing to improve the business climate in the ACT.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (4.51): Madam Speaker, I rise to address the budget brought in by the Chief Minister and Treasurer, and I do so with some pride. These substantial documents which I hold identify such things as the transitional arrangements that this Government has put into place in the period that we have been in office since self-government. They also give quite clear indications as to where we project that we will be. I stand here, Madam Speaker, with a capital works program for 1994-95 based on sound judgment in terms of the necessary public infrastructure and the social justice principle that this Government has been pursuing.

I have here a budget overview document which takes a holistic approach to what is contained in our budget. I stand here with estimates for each program that this budget covers, detailing, chapter and verse, what it has paid for, where it has come from, and how it was expended. I stand here, Madam Speaker, with information and estimates for 1993-94 to tell you what has happened. I stand here, Madam Speaker, with a document that takes us through all of the issues required to be addressed in any sensible budget, in any business plan. Any business would have a similar approach. I have here, Madam Speaker, the environment budget statement which outlines how this Government will expend funds, will undertake programs and will assist the community in relation to the preservation of this city in which we live. I have here, Madam Speaker, a social justice statement outlining the social justice programs that this Government has embarked upon.

16 June 1994

What do we have from the other side? Madam Speaker, here on one page is the alternative budget strategy. One page is all it is. It is very simple. It is said that all that we on this side do is nip and tuck. That must have been what happened in Mrs Carnell's office in the last 15 minutes because all we have here is a cut and paste job. She has said, "The rest of it is fine; but over here we will take off this much, and we will put back in this much. Look at this, I am a financial whiz; this is an alternative strategy. Here it is". This person holds herself out as being not only the alternative Chief Minister but also, I presume, the alternative Treasurer. No, that probably is not the case because Mr Kaine would probably be Treasurer. Well, he may not be. He could be, if he gets back. Mr De Domenico may be the alternative Treasurer, but I think he would have a problem in getting over the top of Mr Humphries to get to that job. This document, if it was not so farcical, would be laughable.

Mrs Carnell: It certainly would be if we were willing to give you the computer models.

MR LAMONT: Here it is; this is the reply to the budget, the alternative budget strategy. As Mr De Domenico described something yesterday, this is a load of hyperBOLE - if you will pardon me. I am amazed that you had the audacity to walk in here - - -

Mrs Carnell: I did not table that.

MR LAMONT: I am amazed that you had the audacity to walk in here at 3 o'clock this afternoon and present that sort of garbage, and then suggest to the community - - -

Mrs Carnell: Do you think we are going to give you the computer models?

MR LAMONT: I am sorry; you know that it is garbage, and you did deliberately walk in here to bring in one page.

Mrs Carnell: It all balances.

MR LAMONT: Of course it balances. With the pair of scissors and the gluepot you obviously have in your office, anything could balance. I tell you what; Mr De Domenico is one of the best counters on that side of the house. He turned one vote into five. Mrs Carnell, you should not take lessons like that from Mr De Domenico because you end up like this, with one page. I think there are something like 320 characters in all. It probably did not overtax the extensive resources of the Leader of the Opposition to put 360-odd characters on a piece of paper and suggest that it is the alternative budget strategy. What an absolute joke!

Mrs Carnell, this is what you are required to do in government. You are required to go through programs, as I am about to do, and indicate how you have put together a budget. This is one of the best budgets ever put together. It was acknowledged even by Ian Davis as being one of the best budgets ever put together since self-government in this Territory. Madam Speaker, I have ensured that the Urban Services 1994-95 budget makes a significant contribution to the Government's commitment to foster business confidence and employment growth in the ACT and to improve our environmental quality. I sat here in a state of incredulity when Mr Westende stood up and said, "This Government has done nothing for business". You obviously have not been listening, Mr Westende.

Mr Westende: I do not have to listen; I can experience it.

MR LAMONT: I was really pleased to be at a function with you recently where you were saying how good business is becoming. I say that that is because you are a good business person. I would also say to you that most good business people in Canberra have been able to flourish under this Government. In fact, with the additional assistance provided in this budget, and the decisions that have been made by this Government, we will have business flourish even better. Mr Westende, \$8m has been cut off your electricity bills. That is \$8m to the business community.

Mr Westende: Ha, ha! I do not pay \$8m.

MR LAMONT: That is what is happening in the business community, Mr Westende. Not everything in the business community revolves around you, although I know that you would like to think that. We have cut \$8m from the electricity costs of commercial and industrial consumers of electricity in this Territory. That is one thing. In relation to enhancements and processes to attract business to the Territory through the Canberra region advanced technology manufacturing group, we have provided over \$3m for the establishment of an advanced technology manufacturing site at Symonston near Fyshwick. This site is sought by the business community in Canberra. It also has been indicated that it will be attractive to businesses wishing to relocate into the ACT. That is something that business has asked for; that is something that this Government has delivered.

Madam Speaker, we will also be rejuvenating a number of our older shopping centres. I answered in question time in this place a question - I believe that it was from Mr Stevenson - about what we will do with \$700,000 which is being put into the older shopping centres to help promote activity and to help ensure that they do not run into a state of decay and decline to the extent that the businesses in those centres suffer and community services diminish. That is something we are doing not only for the business sector but also for the community, Mr Westende. You obviously have not read the budget. I suppose that all your business acumen was occupied while you were up there, toiling away in Mrs Carnell's office over the last three days, to produce these 360 characters on this one-page alternative budget strategy. I presume that that is what has happened. Or, maybe, Mrs Carnell did not come to you for advice about the 360 characters. It is obvious that she did not go to Mr Kaine. That is obvious from this sort of response. Even Mr Kaine would have more substance in an alternative budget strategy than one page with 360 characters on it. This Government, in times of hard economic circumstances around this country, took a careful budgetary approach and it has taken this Territory's financial rating to AAA. That is something that, I believe, all Territorians can be proud of. That is something that we have all participated in, except, obviously, for Mrs Carnell, who has been too busy trying to put together a budget strategy.

16 June 1994

Madam Speaker, we will continue the process of industrial reform within the Department of Urban Services. This industrial reform has already seen significant gains to the Territory via significant reductions in oncosts. As an example, ACTION will continue to produce savings, and a further reduction of nearly \$4m in its deficit will occur this financial year. In 1991-92, when Mr Kaine was the Chief Minister and Treasurer, when his principal adviser obviously was the person sitting next to him, and the man sitting over at the back was on his personal staff - we have three of the villains here - ACTION had a deficit of \$54m. Under this Labor Government that has been reduced, incredibly, to about \$39m. What has been proposed in the alternative budget strategy? Here it is. We have a deficit of \$39m. Bang! "ACTION reform - \$27m". I presume that what Mrs Carnell is going to do is what Jeff Kennett would like to do - just cut out public transport altogether, and 1,000 jobs. Mrs Carnell is talking about 1,000 jobs. That is absolutely outrageous. Mrs Carnell, I can understand why you have been prepared to put out only a one-page budget strategy. You would be too ashamed to stand up and tell the people of the Territory, and particularly ACT Government employees, that what you are on about is cutting 1,000 jobs in ACTION. That is absolutely outrageous.

Madam Speaker, I could go on and talk about a whole range of other initiatives which are outlined in these substantial documents that the Government has developed as part of its budget strategy this year, but I wish to talk about some of the things that we are doing in the Housing and Community Services area. The strategy of this year's budget is to focus on the needs of the most disadvantaged groups in our community in this year, the International Year of the Family. The Government has increased funding to the ACT Housing and Community Services Bureau to increase support for the home and community care program as well as to build a stronger and more responsive child protection service.

The home and community care program commitment reflects the Government's concern for the frail aged, people with disabilities, and their carers. The home and community care program is a joint Commonwealth-ACT funded program. The aim of the program was to give people the opportunity to maintain their independence and improve their quality of life and range of choices so that they could live fulfilling lives in the community, not tucked away as Mr Kaine obviously would prefer to see them. The home and community care program services include home help and personal care, assessment, referral and information, community respite care, paramedical services, home nursing, home maintenance and transport.

In recognition of the need for increased services to assist the frail aged, and younger people with disabilities and their carers, the program this year will receive cost supplementation of 2 per cent to enable it to maintain the current level of service. The program will also receive a 3 per cent boost in funding to cater for the growth in the number of people with disabilities, as well as the increasing proportion of aged people in the population. Those are two substantial initiatives by this Government. As well as recognising the growth in the aged population, the increased home and community care program funds will, through a pilot home modification and equipment scheme, assist people to remain in the community rather than rely on residential care. This year home and community care program and other service providers will also receive training in the protection of the elderly. This initiative is in line with the United Nations principles for older persons which say that older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse. The training proposals will alert service providers to the seriousness of the issue and enhance the safety and well-being of older people.

Madam Speaker, I have 15 more pages of initiatives in the Housing and Community Services area. In relation to industrial reform, I have 12 pages of initiatives that this Government is undertaking. In relation to sport and recreation I say, with some modesty, that I have been able to build upon the excellent work done by the previous Minister for Sport, Wayne Berry. Having had previous sports budgets put in place, this year's sports budget is regarded as the best since self-government. I am able to take some of the credit for the work undertaken by the previous Minister, but I hope that people recognise the great contribution that Mr Berry made in relation to sport in the ACT. All these initiatives are substantial; they are well defined; they are costed; and they are quantifiable. What do we have in response? We have a one-page budget strategy. Madam Speaker, I think that on this occasion Mrs Carnell should hide in her office until this debate has been concluded.

MR HUMPHRIES (5.07): Madam Speaker, I was really quite thrilled to hear Mr Lamont's comments. It was a return of the old trade unionist, banging the table and saying, "I am the man who is going to get things done". It proves to me what a tremendous impact Mrs Carnell's comments have made. Clearly, this Labor Government is worried. They are very worried about what Mrs Carnell has done. She put on the table the parameters of how she will operate next year, having won government at the 1995 election.

I would like to contrast the approach Mrs Carnell has taken with the approach taken by Ms Follett when she was in opposition. Ms Follett used the same opportunity in the response to the Appropriation Bill 1990-91 basically to attack the Government at every opportunity without putting any positive alternatives on the table. Mrs Carnell today has explained not just where the Government has fallen short but where her alternative Government, her Government in waiting, as it were, will provide solutions to Canberra's problems. She deserves great credit for having done that. Mr Moore had some criticisms of that approach. That is fair enough, I suppose. He can make judgments about this if he wants to. But I think that he and everyone else in this chamber should appreciate the fact that we have in this alternative budget at least an indication to the people of Canberra well before the 1995 election of the sorts of alternatives that will be pursued by a Liberal government. That is, I think, a considerably fairer and more open approach than that pursued by the Labor Party in opposition and those pursued by oppositions generally in the past in this place. That might upset people like Mr Lamont; but, of course, it takes great courage to do that, and Mrs Carnell has shown that courage.

Madam Speaker, what Mrs Carnell has done prevents the kinds of cheap shots that were taken by Ms Follett in response to the 1990-91 budget. For example, members will recall very well that at that time she got stuck into the Alliance Government because it dared to allocate \$6m for redundancies. The record shows that the two most recent budgets in this place added something like \$30m in redundancies at a time when the unemployment rate was considerably higher than it was back in 1990. That is the kind of dishonesty that you get when you do not produce your alternative figures. Mrs Carnell has produced her alternative figures, and that is, I think, to her great credit.

16 June 1994

Madam Speaker, Rosemary Follett's fifth budget in this place is a bread and circus budget. It seeks to buy votes with money the Territory really does not have. It is the sort of budget that makes informed observers quite cynical about politics and politicians. Ms Szuty, in her budget comments, listed the many give-aways in this budget. Anybody who sees budgets as being about which interest group or constituency gets what would be very thrilled because in this budget a bit of honey falls in almost everybody's mouth. But I see budgets differently. I see them as being about putting our house in order in the longer term. It is about strengthening our Territory's viability. It is about putting us in a position relative to other communities which is strong and competitive. It is about having something put away for a rainy day. That rainy day, unfortunately, is very imminent, when Commonwealth funding to this Territory dips to the same level as that of other States.

The problem with this Government's approach is that it is two years of famine and then one year of feast. It says to the electors, "We are sorry about the last two years; but here are some goodies to say that we are sorry about what happened before, and you can trust us to be good guys in the future. So, vote for us next year and we will do it all again in the next three years".

Mr De Domenico: "Trust me; I am a Labor politician".

MR HUMPHRIES: Indeed, "Trust me; I am a Labor politician". That is what it is all about. People are expected to forget about the attempts to cut teacher numbers, the cuts to policing, the longer hospital waiting lists and all those things which have characterised Rosemary Follett's Government over the last three years. "Put all that to one side", we are told, "and just go into the polling booth and vote for us one more time".

Mr Lamont told this place that all the pundits had given the Follett Government a wonderful 10 out of 10 for its achievement in this budget. First of all, let me say that this is the Government that said yesterday that the Pearce report had given Mr Berry a clean bill of health. They said that everything they had done with the VITAB contract had been wonderful. So we have to mistrust somewhat their reading of simple documents put in front of them. Putting that to one side, I recall the comments made yesterday by an economist from Access Economics, David Chessell, who said that the major - - -

Mr Connolly: I think he said seven or eight out of 10, which is not bad for a Liberal Party think-tank.

MR HUMPHRIES: He did give it that score, Mr Connolly; but he said that the major drawback about this budget is that it does not advance the Territory's long-term position. Our debt is not reduced; in fact, it is increased under this budget. Spending is not significantly trimmed and the revenue position is basically unchanged. In other words, there is no investing in the future, notwithstanding the slogan introduced at the time of this budget. There is no investment in the future. It is about short-term give-aways, lollies for the children, and making sure that the big problems that face our Territory are going to be met tomorrow, at some other time, and not in the life of this Assembly. That, Madam Speaker, is irresponsible. It is focusing on next February exclusively. The day of reckoning which looms ever closer is simply not being addressed until after 18 February next year.

This Government talks about its AAA credit rating. What the Government does not realise is that AAA in this case stands for "all arse about". That is what this is all about. It is about putting the short-term decisions to the top of the queue and leaving the long-term decisions, the important decisions, for another day. Even the new initiatives undertaken in this budget, Madam Speaker, have a certain second-hand flavour about them. The ACT's periodic detention centre, for example, is something that we have certainly welcomed, but I seem to recall that there was great resistance to it over the last few years by this very Government. The Government seems to be about cutting off all the possible areas of contention, areas where it might suffer some disadvantage at the coming election. Again, it is all about next year's election; it is about buying votes. I think the centre is a good idea. In fact, I am flattered that they have gone down that path.

The other important area is big bins, the same big bins that, according to Ms Follett and Mr Wood, were "disastrous for recycling", and about which they said, "No government acting in an environmentally responsible way would contemplate the introduction of big bins". These are the big bins that today have been promised by the Follett Government. These are the same big bins. Madam Speaker, what utter cynicism, to put forward to the people of the ACT that they are getting the big bins that they all understand and have wanted for some time, but modify the bins to make it look as though the Government is putting in something different from what was talked about three years ago. We know that that is not the case.

Madam Speaker, there are important initiatives in the alternative budget put forward by Mrs Carnell, and one of the most important of those is that 3c reduction over a three-year period in the petrol franchise fee in the Territory. Everybody knows that higher petrol prices in this Territory are a major disincentive to employ. Businesses which employ need petrol, in almost all cases, and those businesses have a major difficulty in employing more people when they are paying high overheads. The fact of life is that government is historically responsible for higher petrol prices in the ACT. Mr Connolly's own review of petrol prices a year or so ago proved that, and therefore it is government which should be primarily responsible for bringing those prices down. Mrs Carnell has indicated for the first time an equitable and fair-to-all way of doing just that, not the "Let us play favourites in the marketplace" kind of approach which Mr Connolly has taken in this place and which stands condemned.

I turn, Madam Speaker, to the important question of the police budget. One aspect worthy of comment is the shoddy treatment given to law enforcement under this budget. In the last few years appropriations to our police have decreased dramatically. This budget is no exception to that. Mr Connolly made reference yesterday to a so-called increase of \$290,000 in his police budget. I am afraid that I cannot find that \$290,000, and I do not think he can either. The real story is very different. Our police, as a result of this budget, will simply have to do with less, and that is in the face of a situation where crime is rising at a rate of about 12 per cent a year. You would think, with increases of crime at that level, that you would be looking at increases in the police budget at that level; but no. You would think that at least you would be having a stabilised police budget; but no. We have, in fact, in real terms, a cut in the police budget.

16 June 1994

Madam Speaker, let us look, first of all, at the trend over the last four years. Let us compare the present budget with the Alliance Government's budget of 1990-91. Even if we were to assume that there had been no inflation in the four years since that budget and we examined the police budget in absolute dollar terms, the amount spent on police, in those last four years, has declined by \$3.5m, or 6.4 per cent. That is since 1990-91 and it takes into account the changes in this year's budget. There has been a 6.4 per cent reduction while crime rates have been rising at at least five times that level over the same period. Taking into account the inflation which we have experienced, in real terms there has been a decline of approximately \$13m in the police budget since 1990-91, a cut of 20 per cent.

Mr Connolly: But you are putting back only \$1.1m, Gary.

MR HUMPHRIES: You have to take it a step at a time, Mr Connolly. It will take a long time to rectify the damage that your budgets have done to policing in this Territory, but this is the first step towards doing it. The Minister says that there has been an increase in this year's budget of \$295,000. What he meant, of course, was that there is an increase in expenditure on new initiatives of \$1.175m less 2 per cent untargeted savings amounting to \$880,000. The difference between those two figures is \$295,000 if you have a continuing base between last year and this year; but, of course, you do not. He does not explain the bottom line effect on the police budget. There was in last year's budget a twenty-seventh pay, which did account for \$1.519m, or \$1.319m if you take into account an overpayment from the previous year. So far, so good. But that still leaves at least \$241,000 in cuts between last year's budget and this year's budget which remain unexplained by this Minister, as is the \$295,000 so-called increase.

It is wrong of the Minister to say that one-off variations, or one-offs in last year's budget, account for that difference. They simply do not. In last year's budget, the 1993-94 budget, there were policy variations, as indicated in last year's budget papers - that is, total policy and parameter adjustments - of only \$106,000. Well might you run away, Mr Connolly. Would you like to have this explained? The budget variation is \$106,000, so where do we get an increase of \$295,000? I think you owe the Assembly an explanation as to where you get this figure of \$295,000. Until you provide it I will continue to maintain that there has been a real cut in policing in this Territory. That, I think, reflects the real position that we are going to face, and that we have faced over the last four years in this Territory.

I want, briefly, to comment on Mr Moore's remarks about the budget. I think that they were unfair. I do not think he has taken into account the fact that we have put on the table what we intend to do, which stands in stark contrast to the behaviour in the past of oppositions, I must admit, of both sides of the chamber. He calls benchmarking the lowest common denominator. I call benchmarking looking at the world's best practices, and putting in place those world's best practices to make sure that we have the best standard in the ACT.

Mr Moore: The lowest common denominator.

MR HUMPHRIES: No. For example, he called casemix funding the lowest common denominator. The Federal Government has spent \$30m on researching casemix funding - getting it right to improve the quality of care; not just saving money, but improving the quality of care. Madam Speaker, that is precisely what has happened in Victoria to achieve a reduction in the waiting list, and it is producing dividends. That is what we are talking about here. Casemix funding is good news in that respect. I think it is most unfair of Mr Moore to describe it as the lowest common denominator. Those things are important.

Mrs Carnell has taken a courageous approach in putting before this Assembly an indication of her budget strategy. She deserves credit for that fact. Of course, she leaves herself open to attack; but she is doing a damn sight more than Ms Follett ever did in opposition, or anybody preceding her. I think she deserves great credit for that because we will see - - -

Mr Connolly: You reckon that this is the Fightback of the ACT, do you?

MR HUMPHRIES: Maybe Fightback has a lot to do with this up-front approach that she is adopting. I think that the research she has done will bear out that she has taken the right approach, and she has taken the honest approach with the people of the ACT.

MR CORNWELL (5.22): Madam Speaker, I was interested to hear somebody in the education area state that they were pleased with this budget. I think Mr Moore put his finger on a better and more appropriate word, and that is "relieved". They were relieved because there were no cuts to the education budget. However, I do not believe that they can say much more than that they were relieved. In fact, it is very much a bricks and mortar education budget. Some \$14.2m has been appropriated in bricks and mortar, and \$7.8m of that is for the Nicholls preschool and primary school. I do not really see that as purely education expenditure. It is certainly preparing for education; but you cannot claim that it is education expenditure, any more than you can in some of the area upgrades, although I do admit that they will assist in the science and technology training that goes on in our schools. I might also say, in fairness, that I am delighted to see that \$335,000 has been given for the co-location, Mr Humphries, of the Yarralumla Montessori School. How long have we been waiting for that? Quite some time. I commend the Government for that step.

However, let us not be fooled by a sense of false security about this education budget. I suggest that not only the players in education but also anybody interested in education should really be profoundly dissatisfied with what this Labor Government has done. In order to demonstrate how dissatisfied we should be, I could do no better than to read from a letter written not by me but by the Council of Parents and Citizens Associations Inc. to the Minister, Mr Wood. I quote:

There is now hard evidence that a significant proportion of students in ACT government schools are not being well served in literacy and numeracy development.

16 June 1994

Departmental statistics reveal that, for the last three years, 24-26 per cent of Year 6 students have been identified as requiring learning assistance in Year 7.

That is the first year of high school. The letter continues:

Only 32 per cent of these students return to mainstream classes after the Year 8 re-test. The statistics show that, in 1993, 2,875 students in government high schools were identified as requiring learning assistance.

The letter goes on to advise that, even in the primary school sector, surveys on reading recovery indicated that, whilst 19 per cent of students entering Year 1 are identified as requiring assistance, only 13 per cent of those students were, in fact, receiving some assistance. The associations go on to say that the outcomes at the end of secondary schooling are also unsatisfactory because of an increasing drop-out rate between Years 10 and 12. They also point out that, in 1992, 83 per cent of February Year 12 enrolments received a Year 12 certificate. These outcomes have declined because, in 1989, some 89 per cent of February Year 12 enrolments received a Year 12 certificate.

What is the response of the Government to this request by the council? The council would welcome your commitment to begin a process for addressing these problems in the near future. The response of this Government is to provide \$300,000 for a pilot project in primary schools only. Well may you wince, Mr Lamont, because \$300,000, when you work it out, on an estimated 300 students in need, comes down to a piddling \$23 per student. I accept that that is probably an unreasonable comparison. A more valid comparison, I would suggest, is to put that \$300,000 into reading recovery and learning assistance in terms of extra teachers. That \$300,000 would come down to an extra 10 teachers - only 10 teachers - which would work out at a ratio of one extra teacher per 130 students. How much reading recovery and literacy and numeracy improvement do you think they are going to get out of that? Very little. I would suggest, therefore, that we should look again at what this Government has done in terms of education.

I think it is particularly regrettable, Madam Speaker, that this approach has been adopted, because the Federal Government has given the ACT an additional \$1.85m for training programs, there are another additional 200 part-time places in CIT for 1994-95, and there is the possibility that the Commonwealth will give us additional funds of \$300,000 for entry level training, again to CIT. What a pity it is that, as a result of the neglect in terms of literacy and numeracy, a great many ACT students going forward to CIT will not be able to take advantage of this, and the money probably will be spent on out-of-town students. It is a great pity that we cannot look after our own people because of the neglect of this Government at the government school level.

I would like to turn now, Madam Speaker, to the question of housing. Housing is a case not so much of neglect as what is missing from it. I mentioned earlier today in discussions with Mr Lamont during question time that \$9.3m of the Housing Trust expenditure has not been used. I therefore wonder why we are spending \$280,000 for a private rental project for people on the trust waiting list. If this Government were a little more efficient

it would have spent the \$9m that it still has available. Of course, that is not the only thing that is missing from the Housing Trust budget. Also missing, although it is buried away at page 147 of the program estimates, is advice that there will be an increase in rent from tenants, because the base rental rate of 21 per cent is going up to 22 per cent this year. Nowhere else is that mentioned in this Government's housing budget. That is something of which I would have thought the Government should have had the courage to advise its tenants. Instead it prefers to bury it.

What is even better is the announcement by the Government that the ACT Housing Trust will create a new shelter for homeless men in the city, costing \$300,000 to establish and \$150,000 in the first year to run. The only problem is that that was in last year's budget. We have yet to see this shelter for homeless men. Not only was it mentioned and trumpeted in last year's budget; it was also in this Labor Government's social justice policy last year. There is an amount here in 1993-94 for a men's shelter, \$378,000, with another \$142,000 to be spent in 1994-95. What is the matter, Government? Does social justice, in the view of the Labor Party in this town, apply only to women and children and not to men? Where is the men's shelter that you promised last year?

There are also creative initiatives shown in this housing budget to the same extent. Mr Kaine identified one down in Tuggeranong. I think it was an enclosed oval. I found this an interesting creative initiative. At page 13 of the budget speech the Chief Minister said:

A new housing loan option known as HomeEntry will be introduced to target existing and potential Housing Trust tenants and to provide some people, otherwise not able to purchase, with an option to own their own home.

However, when I turn to page 151 of the program estimates, I see under the heading "Major Resource Variations", "Opening Balance will increase by \$3.1m or 147 per cent due to delays in the introduction of the HomeEntry program". Why do you have it in your budget statement and speech if you have delayed it? Is it another bit of creative initiative, Chief Minister? Is it something else that you can trot out this year and, if nobody notices it, you will trot out again next year? I do not regard this as very satisfactory behaviour by a government, and I certainly believe that you are fooling the community.

In respect of housing we have the usual flim-flam of promises. Mr Lamont, in announcing improved services for Housing Trust clients, talked about the establishment of client service teams which will be able to respond to queries, applications and requests for services such as public housing allocations, rent rebates, private rental assistance, home loans and sales, and respond to tenants' requests for property repairs. Do not hold your breath. Ominously, his statement goes on to say:

16 June 1994

Later -

we do not know how much later; 12 months later, perhaps, like the men's shelter -

the Housing Trust will be able to provide point of contact services which will avoid the need for clients to follow up their applications and requests.

I do not believe you. Most of the callers to my office in relation to Housing Trust matters complain that nobody ever answers their calls, or, if they do call in, nobody ever phones back. I wish you luck, Mr Lamont; but I suggest that you will have no better luck than your predecessor, Mr Connolly. Mr Lamont, perhaps, is upstairs checking over what he said in the budget.

Mr Kaine: He is trying to find the Tuggeranong oval.

MR CORNWELL: Indeed, the Tuggeranong oval. He went on to say that our Housing Trust tenants "will be advised, for example, what action will be taken to repair their homes when they notify their district office". I think the answer is very simple, certainly from my experience - nothing. The answer will be, "We will get back to you. We are from the Government. We are here to help you".

Mr De Domenico: "Trust me; I am a Labor politician".

MR CORNWELL: That is correct. "Trust me; I am a Labor politician". What we have come down to, again, is simply a whole heap of empty rhetoric. They trot out the old business, such as that they are going to improve things by direct debit payments. This furphy has been tossed around for about three years. We all know that direct debit will fail because it can be done only on a voluntary basis. On a voluntary direct debit basis, you do not need to chase up people, for the simple reason that they are the people who pay their rent anyway. It is the people who do not whom you have to chase up.

Most of the problems that are faced by the trust could very easily be corrected by regular three-monthly inspections of properties, by a determined effort to make rent collections mandatory through direct debit, and, in the Housing Trust flats, by putting janitors back and giving people a bit of security. Instead, we have this furphy coming out again - promises, promises, promises - that you are looking at another review of housing. In the meantime we sit on \$5.5m worth of arrears, \$2.5m of which are by people who are vacating. We have an underspending of \$9m this year and we have the Auditor-General's report which shows that, in maintenance expenditure, each public housing residence in the ACT costs, on average, \$1,222 compared with an average in other States of \$824. We also have what has to be the understatement of the year - that the success rate in recovering from tenants the cost of repairs for which they were responsible was low in 1992-93. Low! It was virtually invisible. We got back 4.1 per cent. The amount invoiced was \$80,000 and the trust managed to collect \$3,258, or 4.1 per cent. "Low", says the Auditor-General. That, as I say, has to be the understatement of the year.

Once again we see evidence throughout this budget, as my colleagues have been saying, and as I can only endorse, that there is no real action being taken here; there are just promises of things that will occur. If the evidence that I have found is any indication, certainly in relation to the men's shelter in last year's budget, there is simply no guarantee that what you have promised in 1994-95 will be delivered with any greater speed than what you failed to deliver in last year's budget.

MS FOLLETT (Chief Minister and Treasurer) (5.38), in reply: I would like to respond, although fairly briefly, to some of the comments that have been made in the course of the debate. I reiterate what I said in bringing down this budget on Tuesday, and that is that I am very proud of it. It is a budget which is fair to the ACT community. It protects the services that this community needs, and it adds to those services in many important respects. The budget also is fair not just to the present generation but also to future generations because we have taken a very responsible attitude towards the management of the Territory's finances. We have sought to borrow only for income producing purposes, and we have restrained our borrowings to a low level. I believe that that is the appropriate course for the Territory to take as we are still in the transitional period to State-like funding levels.

We have heard predominantly from members of the Liberal Party on what they have referred to as an alternative strategy. All I can say is that it is no wonder that that strategy had to be dragged out of them. It is no wonder that they hid it in their office until ordered to produce it in this Assembly. From looking at the strategy, it is abundantly clear that all members of the Liberal Party share Mrs Carnell's view that there is no role for government in providing services. Mrs Carnell has never corrected that view, and nor should she, because all of the documentation she has produced bears it out. Her so-called draft strategy turned out to be one page, and it does not even cover all areas of service provision to the community. It leaves out health and it leaves out education. A few little things like that are not dealt with at all. The fact is, Madam Speaker, that under Mrs Carnell's strategy the ACT community would be \$117m worse off. She simply has not done her sums. In the course of her remarks Mrs Carnell referred to the public sector financing requirement growing to \$107m by 1997-98. She has simply misread the figures and has worked off a completely wrong premise. If Mrs Carnell had bothered to check in the "Budget Overview" document, at page 108 of Budget Paper No. 2, she would have seen that by 1997-98 there will in fact be a surplus of some \$51m.

I think the mistake that Mrs Carnell has made is to misread the figures which appear under "Net Financing Requirement". It appears to me that she has interpreted all the figures with minuses as being deficits, but in fact they are not. A figure with a minus under the heading "Deficit" means a surplus. I wish Mrs Carnell were here to hear me say that, because it is an egregious error and one which she should have checked. Madam Speaker, that throws out all of the so-called work that Mrs Carnell has done. She has assured us that her programs have been "carefully costed". I quote:

They have been through a rigorous process of development since the last ACT budget, and ... are being constantly refined.

16 June 1994

It is hard to see that, Madam Speaker. If that is the case, I suggest that the product of that work is still hidden in Mrs Carnell's office. The fact is that, when people went up to her office at Mr De Domenico's invitation to get a copy of the strategy, we were refused. In fact, it had to be dragged out of them. They had to be ordered to produce it.

Another problem, Madam Speaker, with Mrs Carnell's alternative strategy is that no-one agrees with her. In fact, the budget which I have produced has generally met with approval. Certainly, Madam Speaker - - -

Mr Kaine: Whose?

Mr Humphries: The president of the Lanyon branch of the ALP, the president of the Ginninderra branch of the ALP.

MADAM SPEAKER: Order!

MS FOLLETT: Madam Speaker, I think the business community recognise that under this budget they will be able to thrive and prosper. They will certainly enjoy lower rates, lower electricity charges, lower petrol charges, and no new taxes. They recognise a good thing when they see it. Members opposite refer to the community sector as small interest groups. These are people who represent the disabled, the schooling sector, the elderly. They are just minor interest groups to the Liberals, but not to me, and I will try to meet their needs. They generally have been supportive of the budget. Independent commentators likewise have been reasonably supportive of the budget, and I am pleased to see that, Madam Speaker, because, as I say, I put a high priority on being responsible in our financial management.

I thought Mr Moore covered particularly well the alternative strategy that has been put forward. It is nothing more than an exercise in privatisation. We can see, yet again, the Liberal cant emerging. They are totally opposed to anything the public sector does. Anything to do with trade unions is anathema to them because the private sector will do it better and, for that reason, say the Liberals, we must cut \$27m off the public transport service and privatise it. Madam Speaker, the upshot of that would be very straightforward. The parts of the transport service which make a profit would go to the private sector. The services to Tuggeranong, the services after hours, the services to some of our smaller areas simply would not occur. Madam Speaker, again the Liberals say that the Government has no role in the provision of services. Under their recipe for ACTION there would certainly be no public transport service for the majority of Canberrans. Mrs Carnell's strategy, so-called, says that people would have a choice. Under her strategy for ACTION they certainly would have a choice - walk or catch a taxi, because there would be no buses, not to mention the thousand jobs that would go, Madam Speaker.

Similarly, in the area of health, what the Liberals are proposing is privatisation. In fact, it is written down as "Private use of health facilities", and the selling off of Jindalee. There is no replacement for Jindalee. Nothing is mentioned here. We hear from them all this rhetoric about people in nursing homes, but what they are proposing to do is sell it.

There is no replacement. Some strategy! Again it bears out what Mrs Carnell has said so clearly - that the Government has no role in providing services. As far as nursing home services go, there would not be any. That is a great strategy! That is a wonderful strategy! Madam Speaker, I believe that the Liberal approach is absolutely and fatally flawed and that not only would the Canberra community be worse off in financial terms by some \$117m, as I have shown, but also, in service terms, there simply would not be any in a great many of the vital areas for our community.

Mr Kaine also made some interesting remarks. Madam Speaker, both he and Mrs Carnell referred to my pursuing a high debt strategy. What a load of rubbish! In fact, Madam Speaker, the borrowings in this budget, \$36m, are very modest and are well within our allowance under the Loan Council arrangements. They compare extremely favourably with Mr Kaine's own new borrowings in his 1991 budget. Mr Kaine's new borrowings were \$43.4m out of a total borrowing requirement in his budget of some \$87m. Madam Speaker, I have constrained that - I do not have the bankcard mentality that Mr Kaine had - and that has taken discipline.

Mr Kaine also referred to this Government's failure to reduce our costs. That is simply untrue, Mr Kaine. If you look at just one of the budget documents, one of the shorter ones - it will not tax you too much - the transition paper, you will see that in fact the Government has reduced its own outlays significantly and continuously since 1989, except for one period, and that was during 1990-91. You can see on the graph that is provided on page 9 that during the period when the Alliance Government was in charge there was in fact a blow-out. It comes to quite a peak on the graph in 1990-91. Madam Speaker, in fact our actual expenditure in 1991 was the highest to date and that was under the Alliance Government. What we saw from the Liberals in government was not only high expenditure and high borrowings but also a reduction in services. They closed a hospital and they tried to close 25 schools. If anybody needed any further proof, Mrs Carnell never said a truer word when she said that, in the Liberals' view, there is no role for government in the provision of services, and that is what you would get under the alternative strategy.

Mr De Domenico: What hyperBOLE that was! What hyperBOLE!

MS FOLLETT: It is hyPERbole, Mr De Domenico. I cannot bear to hear you say it again.

Mr De Domenico: No; I like to pronounciate things differently from you, Ms Follett.

MS FOLLETT: I am sorry, Madam Speaker; I should not respond to interjections, but I have heard that word mispronounced so often that I could not resist. Madam Speaker, as I say, the budget which I have produced is an optimistic and forward-looking budget which does protect the future of this Territory. Most sensible commentators have recognised that.

The absolute sterility of the Liberals' rhetoric on this issue is borne out by the fact that they accuse me on the one hand of having put in an election budget and on the other hand of having done nothing. You cannot have it both ways, and you have both run the dual line. Mr De Domenico, I think it was, constantly referred to doing something

16 June 1994

dramatic with the budget. He would not say what it was; but I suspect that it was blowing it out by \$177m, which they were going to borrow. That is pretty dramatic, and that is what Mrs Carnell has in mind. Madam Speaker, by contrast, this Government has a very good record of financial management. We have handled the transition to State-type funding levels extremely well. We will continue to do so. It is apparent to me that the so-called alternative is no alternative at all.

Members interjected.

MS FOLLETT: Madam Speaker, I do not think that this constant interjection is worthy of this chamber.

MADAM SPEAKER: Order! I have called for order. Order!

MS FOLLETT: Thank you, Madam Speaker. I realise that the Liberals must be embarrassed because the document which they have produced not only contains - - -

Mr Humphries: We are embarrassed by your performance.

Mr De Domenico: We are embarrassed by VITAB and all that.

Mr Berry: I raise a point of order, Madam Speaker. I have heard you call for order half-a-dozen times and you have not got it. I would like you to try to impress upon the people opposite the need to be a little quiet so that some of us can hear what is going on, even if they are not interested.

Mr Moore: I take a point of order, Madam Speaker. I find it distressing that Mr Berry is dissatisfied with the way you are controlling the house. I am certainly perfectly satisfied.

MADAM SPEAKER: Order!

MS FOLLETT: Madam Speaker, to conclude, this Government does have a very good record of financial management, and I know that that must be hurtful for the Liberals. It is most certainly a better record than theirs. Our record on the provision of services to the community is infinitely better than theirs because of our social justice agenda which they simply do not share. Speaker after speaker on the Liberal side just stood up here and told us what we should be doing for the private sector. We should give money to them. We should be supporting them. We should not be listening to these interest groups - that is, the people in the community who have real needs. We should just hand it all over to the private sector, including a large chunk of the public sector activities that we currently undertake on behalf of the Territory. This is absolutely hollow rhetoric. Madam Speaker, I do not think it will fool the Canberra community. I believe that if they look at the record of Labor - Labor treasuries, Labor budgets, Labor in government - in this Territory, they will be satisfied indeed.

Mr Lamont: I rise to take a point of order, Madam Speaker. I believe that I - - -

Mr Kaine: Under which standing order?

Mr Lamont: I rise to take a point of order and I propose, Madam Speaker, that Mr Humphries may have unintentionally misled the house. This afternoon a motion was put by Mr Berry seeking the suspension of standing orders. That motion subsequently was withdrawn after Mr Humphries tabled what was allegedly Mrs Carnell's budget strategy.

Mr Humphries: No, no; I said "speech".

Mr Lamont: No; it was the budget strategy which was asked for by means of the suspension of standing orders. Obviously, if they have not complied, I would like to know, Madam Speaker, through you, whether this is the budget strategy or not.

Mr Humphries: Madam Speaker, I rise to take a point of order. Mr Lamont has suggested that I have misled the house.

Mr Lamont: Unintentionally.

Mr Humphries: Whether unintentionally or not is not the point. He has suggested that I have misled the house. I clearly stated when I tabled that document, and the *Hansard* record will show this, that I was tabling Mrs Carnell's budget speech. I ask him to withdraw the suggestion that I have misled the house.

Members interjected.

MADAM SPEAKER: Order! Mr Lamont asked Mr Humphries to clarify the situation. Mr Humphries has clarified the situation. I do not believe that Mr Lamont imputed any improper motive to Mr Humphries. He simply asked him to explain. Mr Lamont used the word "unintentional" about four times in the course of his speech. If it was unintentional, you have explained that it was unintentional.

Mr Humphries: Madam Speaker, Mr Lamont said, and I think these are his very words, "I believe that Mr Humphries may have unintentionally misled the house". If I have clarified his mind, he should therefore withdraw the suggestion that I might have misled the house.

MADAM SPEAKER: Mr Lamont, you may now make a further statement if you so wish.

Mr Lamont: Madam Speaker, the motion that was being considered at the time, and that was withdrawn, was put on the basis that it was the budget strategy that he was tabling.

Mr Humphries: Are we getting a withdrawal or are we not?

MADAM SPEAKER: No, because you have explained, Mr Humphries.

16 June 1994

Mr Lamont: I withdraw the words "unintentionally misled".

Mr Humphries: Okay.

MADAM SPEAKER: I think that is suitably clarified.

Mr Humphries: Thank you.

MRS CARNELL: Madam Speaker, I seek leave to make a personal explanation under standing order 46.

MADAM SPEAKER: Of course. Carry on.

MRS CARNELL: Thank you. Over the last two days I have listened to those opposite make comments about a particular quote in the *Canberra Weekly*. I thought I would just let it go, but I decided that it was necessary to state what was actually said in the *Canberra Weekly*. What was said was that it is not primarily the role of government to provide services; it is the role of government to determine which services should be provided and how most cost effectively to provide those services.

Question resolved in the affirmative.

Bill agreed to in principle.

MS FOLLETT (Chief Minister and Treasurer) (5.57): Pursuant to standing order 174, Madam Speaker, I move:

That the Appropriation Bill 1994-95 be referred to the Select Committee on Estimates 1994-95.

Question resolved in the affirmative.

ESTIMATES 1994-95 - SELECT COMMITTEE Alteration to Resolution of Appointment

MS FOLLETT (Chief Minister and Treasurer) (5.57): Madam Speaker, I ask for leave to move a motion altering the resolution of appointment of the Select Committee on Estimates 1994-95.

Leave granted.

MS FOLLETT: Madam Speaker, I believe that there has been general consultation on this. I move:

That paragraph (1) of the resolution of the Assembly of 19 April 1994 establishing the Select Committee on Estimates and its terms of reference be amended by inserting after "the Appropriation Bill 1994-95" the following: ", the 1994-95 New Capital Works Program".

Madam Speaker, the purpose of this amendment really does reflect the earlier budget that we have this year and, in accordance with that earlier budget, the somewhat later presentation of the capital works program. This year, for the first time, the capital works program has been presented not in draft form but in its final form as put forward by the Government. For that reason it is somewhat different from previous years. It does not allow, as we have previously seen, the Planning, Development and Infrastructure Committee the opportunity to examine the draft capital works program prior to the presentation of the budget. In discussion with some other members, it did appear sensible to ask the Estimates Committee to include the capital works program in its scrutiny rather than run parallel processes for the PDI Committee and the Estimates Committee. I believe that all members are generally in agreement with the motion.

Question resolved in the affirmative.

AUDITOR-GENERAL - REPORT NO. 4 OF 1994

ACT Treasury - Gaming Machine Administration and Banking Arrangements

MADAM SPEAKER: I present, for your information, the Auditor-General's report No. 4 of 1994 entitled "ACT Treasury - Gaming Machine Administration and Banking Arrangements".

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

That the Assembly authorises the publication of Auditor-General's report No. 4 of 1994.

ABORIGINAL DEATHS IN CUSTODY - ROYAL COMMISSION

1992-93 Implementation Report

MS FOLLETT (Chief Minister and Treasurer) (6.00): Madam Speaker, for the information of members, I present the 1992-93 Implementation Report on the Royal Commission into Aboriginal Deaths in Custody. I move:

That the Assembly takes note of the paper.

I seek leave to have my presentation speech incorporated in *Hansard*.

Leave granted.

Speech incorporated at Appendix 17.

Debate (on motion by Mr Humphries) adjourned.

16 June 1994

**CONSERVATION, HERITAGE AND ENVIRONMENT -
STANDING COMMITTEE**

**Report on Smoke-free Areas (Enclosed Public Places) Bill 1993 -
Government Response**

MR CONNOLLY (Attorney-General and Minister for Health) (6.00): Madam Speaker, for the information of members, I present the Government's response to the Standing Committee on Conservation, Heritage and Environment report on the Smoke-free Areas (Enclosed Public Places) Bill 1993 entitled *Clearing the Air*. I move:

That the Assembly takes note of the paper.

Madam Speaker, I seek leave to have my speech incorporated in *Hansard* in order to save time.

Leave granted.

Speech incorporated at Appendix 18.

Debate (on motion by Mr Moore) adjourned.

TOBACCO ACT

Papers and Ministerial Statement

MR CONNOLLY (Attorney-General and Minister for Health), by leave: Madam Speaker, for the information of members, I present, pursuant to section 6 of the Subordinate Laws Act 1989, determination No. 42 of 1994, including the explanatory statement, which is an exemption made under the Tobacco Act and gazetted in *Gazette* No. S112 dated Wednesday, 15 June 1994. To explain briefly, this relates to the PM's XI match. We are again prepared to make a limited exemption to allow the four B and H signs. As in the past, we will be requiring four equivalent large anti-smoking banners to be displayed. This year, in addition to the previous condition, tough health warnings will be required to accompany the tobacco advertisements. The health warnings must be at least 25 per cent of the area of the B and H tobacco advertisements and shall read, "Smoking causes heart disease" and "Smoking reduces your fitness". This is consistent with proposed Commonwealth Government guidelines.

A request for a second exemption for a match between the touring English side and an ACT team has been rejected. Madam Speaker, this exemption would have signalled a significant relaxation in the tough stand the ACT Government has taken in relation to prohibiting tobacco advertising, as it would, in effect, have doubled the amount of permitted tobacco advertising that has been exempted. Of course, under the new legislation, members may move to make such a subordinate law if they are prepared to hand it to the tobacco lobby.

Mr Cornwell: What is the date of the match?

MR CONNOLLY: The date of the match is 9 November. Given the additional sitting day next week, we have 15 sitting days in which this determination may be disallowed, or members may seek to give additional relaxation to the tobacco lobby.

SUBORDINATE LEGISLATION Paper

MR BERRY: Madam Speaker, pursuant to section 6 of the Subordinate Laws Act 1989, I present determination No. 43 of 1994, including an explanatory statement, which is an exemption from the application of the Building Code made under the Building Act and gazetted in *Gazette* No. S113 dated 15 June 1994.

MADAM SPEAKER: I believe that it is now the wish of the Assembly to suspend for an hour and to resume at 7 o'clock this evening.

Sitting suspended from 6.03 to 7.00 pm

RATES AND LAND TAX (AMENDMENT) BILL 1994

Debate resumed from 14 June 1994, on motion by Ms Follett:

That this Bill be agreed to in principle.

MR KAINE (7.00): This Bill, on the face of it, is fairly innocuous, and the Liberal Party in opposition supports it; but I think there are some aspects of the rating system and the proposal put to us in this Bill that deserve some comment. It is very easy to say to the community, "We are increasing rates at 2.5 per cent, and that is consistent with the CPI". On the face of it, that is the fact of it.

However, individual ratepayers will discover, if they look at their rates bill, that that 2.5 per cent looks a bit odd. There are a couple of reasons for that. First of all, the Chief Minister, when tabling this Bill, pointed out that, although the average increase is 2.5 per cent, residential ratepayers are incurring an overall increase of 3.7 per cent, while commercial property holders will see across the board, on average, a 4.4 per cent reduction. So even at that rate, although there is an average residential property increase of 3.7 per cent, and that in itself is greater than the CPI, individual ratepayers within that will see great fluctuations around that average. There will be many people who will say, and rightly, "What is this 2.5 per cent rates increase?". Even if you look only at the matter put to us in this Bill, which has to do simply with establishing the rate in the dollar of unimproved capital value that is used to determine the ultimate amount of rates any individual has to pay, there are some concerns about that.

Going slightly beyond what is before us in the Bill, the other element in the determination of rates is the unimproved capital value against which the rate is levied. We saw in the media today figures on how that affects people in different suburbs. On the one hand, you have suburbs such as Bruce, which shows an increase in excess of 32 per cent in unimproved capital values across the board. At the other end of the spectrum, you have suburbs such as Stirling and Waramanga in Weston Creek, where the increase is only about half a per cent across the board; and there is a whole range of valuation changes in between. When you apply that second factor to the calculation of rates, you will find that individuals will be paying not a 2.5 per cent increase on last year but a much greater rate than that. There will be a much greater change, and the Government, I have no doubt, will receive over the next few months many calls and letters from people asking them to explain how come their rate increase is 16 per cent or 18 per cent instead of only 2.5 per cent.

That raises the question of whether the system we use for determining rates payments is the right one. The bottom line is right: If the Government assesses that it is going to cost \$86m to run the city this year, they have to raise \$86m. How the burden falls on individuals who are making the contribution is what tells at the end of the day. There are other systems in use, and perhaps it is time we, as a political entity and as a community, had another look at the way we are assessing our rates, to see whether we cannot find a more equitable system in terms of where the burden falls. However, that is for another time and another place.

The Liberal Party has indicated that, after we win government in February next year, apart from putting a cap on the rates for the first year, which is what most people seem to be demanding in equity, we will also inquire into the method of calculating general rates, to see whether we cannot find a more equitable system than that which pertains at the moment, and that is clearly part of our policy. Having said all that, we note the problems that individuals will have with their rates bill when they get it, because of the way the two elements of the formula work. The percentage in the dollar that applies, which in some cases goes beyond the 2.5 per cent CPI increase, and then the significant change at some places and at different times in the unimproved capital value, will raise many questions in people's minds as to whether the Government is serious when it says, "We have increased rates and it is only a 2.5 per cent increase". However, since the Liberal Party has not as yet devised a better method of calculating rates, although we recognise its deficiencies and the aspects of it that attract public criticism, we do support this Bill. We recognise that it is the right of the Government to make its determination as to how it will go about collecting its general rates at the present time, and we support them in this matter.

MR MOORE (7.07): Madam Speaker, I would like to continue on from Mr Kaine's remarks. Rating, or land tax, which is really what we are talking about, even though we have two separate names here, is a particularly equitable way to raise finances. Many of us will remember the innumerable letters on this very issue that we received from Bill Mason prior to his death. It seems to me that he often raised a very good point, that is, that when we are using this system of taxation we are talking about the community benefiting from the unearned profit on land. It is a form of taxation that is not levied on productivity.

One of the things we often hear, particularly from the Liberals, is that we should reduce payroll taxes, we should reduce taxes on business, and there is some very good sense in that. Income tax is also a tax on productivity. Our community would probably be far better served if we changed our taxation system to ensure that we had a far greater proportion of our taxation on land. It is very difficult for us to do that while we have a Federal government levying income tax, with a set of other taxes available to us.

One thing that has been drawn to my attention again and again, particularly by elderly people, is that they have a problem with the fact that their houses grow in value. The report in the *Canberra Times* this morning indicated the rate of increase, and in the areas around where I live and where the Chief Minister lives the increases are greatest. It is also important to remember that with that increase in taxation has gone an incredible increase in the value of their properties. For elderly people that presents quite a dilemma, and we provide a solution to that dilemma by allowing them to defer that payment into their estate. Some elderly people find problems with that, but all of us find problems in making ends meet. While I understand and sympathise with their view that they do not want to have any form of borrowing on their property after they have paid out their mortgage, the relief valve is there for them. Of course, that deferred rate is in no way commensurate with the increase in the value of those properties and has not been over the past few years.

I do have some concerns, and one of them came through in a briefing we had from revenue officials on this. Once again, I thank the Chief Minister for those briefings; they are always useful. There were adjustments made in the Kingston area some years ago - I think it was probably when Tom Uren was Minister - so that where development occurred and the value of properties skyrocketed around people, even though they had no intention of selling, compensation was made in terms of the value of their properties. They were given a nominal rating. We have in North Canberra in particular a situation where development is occurring that is having an impact on the value of the unimproved land, provided that it is going to be used in some development sense. I think this is influencing the rates and twisting the value of the land.

I worked out the solution in this case: The unimproved value of the lease is still at such a level that, when we tax across the board, those who have gained most in speculation on the value of the land, as indeed I have, are required to pay more rates. I must say that I think this is an equitable system, although there is the associated problem when development has an impact on those around it. It happens particularly at a time when amenity is being reduced by such development, so the local residents feel that there is a double whammy. First of all, they are losing amenity and, secondly, they are being charged more because the value of their land is going up, even though they do not want to sell their houses because they happen to like living where they are. That is a problem associated with this system that is yet to be resolved. Madam Speaker, I support the Bill, as is my commitment, and I will continue with that.

16 June 1994

One other factor that a number of people raised with me is that, having paid a greater proportion of rates than people in many other suburbs, they feel that they are not getting the same services - their footpaths are cracking or the streets are not being swept or, whatever the service is, they feel that it is inadequate. I hope that the new Minister will be as receptive as the old Minister to approaches of this nature, which I made quite regularly to Mr Connolly and received a good reception. I hope that that will continue. Madam Speaker, with those few doubts, I am happy to lend my support to this Bill.

MR DE DOMENICO (7.13): As Mr Kaine said, the Liberal Party will be supporting the Bill. To add to what Mr Moore has said, we have not come up with a better system and, for the life of me, I cannot understand how an age pensioner in Ainslie, for example, who may be living in a flat or a self-contained place can have a rating increase of 20.17 per cent, if these figures are right. I cannot verify that the *Canberra Times* has provided us with the correct figure. On the one hand, the person in Ainslie has a rate increase of 20.17 per cent, yet in Forrest the rate goes up by only 0.54 per cent. That seems to be inequitable. The best example I can use is a comparison of the two Tuggeranong suburbs of Banks and Bonython. If these figures are right, I am told that, for example, a property in Banks went from \$63,900 in 1992 to \$37,400 a year later - it halved its value in one year - but then went up again to \$41,900. The increase this year is 12.6 per cent. A property in Bonython, which went from \$52,000 to \$54,000 to \$53,000, has decreased by 2.26 per cent.

I do not know whether we can come up with a better system to make sure that people who live in Ainslie, for example, cannot say, "Why am I paying 20 per cent more than someone living in Red Hill? I am not getting 20 per cent more services than are being given in Red Hill and I am paying 20 per cent more". With those concerns, as Mr Kaine said, the Liberal Party will be supporting the Bill.

Mr Westende: Ours went up by 33 per cent last year.

MR DE DOMENICO: Yes, that may be the case, Mr Westende. Yours went up by 33 per cent last year and it went up by only 0.5 this year. It is not socially just for someone in Ainslie, Banks or Bonython to be paying 100 per cent more than someone in Red Hill or Forrest.

Mr Connolly: The person in Forrest is paying more, but the level of increase in Banks is more. It is a very different thing.

MR DE DOMENICO: I know, Mr Connolly; I am aware of that.

MS FOLLETT (Chief Minister and Treasurer) (7.16), in reply: I thank Mr Kaine, Mr Moore and Mr De Domenico for their comments. There was a considerable amount of comment from both Mr Kaine and Mr Moore that I agree with. I would like to start my concluding remarks by making some general observations. Firstly, if members refer to Budget Paper No. 2, on page 72 they will see a table presented of the comparative per capita general rates. I know that this table is a couple of years old, but I do not

believe that the situation would have changed much. The table shows that the ACT is slightly below the States and Territories average for rates. Considering the level of amenity we enjoy here, being able to set our rates just below the average of all States and Territories is a pretty good achievement. You must bear in mind also that in some other States and Territories ratepayers are subject to additional charges. For example, domestic waste disposal is an additional levy in many areas, and there are other small changes like that that apply across the board. So, overall, we are not by any means on the high side of rating, and when you consider the services we get here I think that is a pretty good deal.

The other broad comment I want to make is that, when people receive their rates bill, they do have some rights. One of those rights is to appeal against the valuation. I know that it has been the case in years gone by that many people have appealed against their valuations, and many people have won. That is a right that should not be downplayed. For other people in our community, particularly those who are less well off, there are forms of assistance available in meeting the rates bill. Pensioners are entitled to a concession, which remains at 50 per cent. That is a generous concession. As members know, I have decided not to go ahead with capping that concession, so all pensioners are now entitled to that 50 per cent concession on their rates. We also have provisions for people to defer all or part of their rates. People who are pensioners can do that. People who are suffering hardship can do that as well. As Mr Moore pointed out, if people take advantage of the deferral scheme it is most likely that the capital gain on their property will far outstrip the accumulating rates liability. So, when the time comes for them to sell and move to, say, a retirement village or if they die and the property is passed to their estate, the gain they will have had on the property will far outstrip any debt they may feel they are leaving behind.

As I said earlier, I will be asking the Council on the Ageing to assist by conducting a publicity campaign about rates deferral amongst the older people in our community. I do feel for those older people who are living in areas where the unimproved capital value has risen quite steeply, and I accept that they have particular difficulties. For all of us, the rates bill is probably the biggest single household bill we will get in the year. It is a struggle for many people, particularly for pensioners, and there is assistance available.

Mr Kaine made some comments about the differential in residential and commercial rating and the fact that our commercial UCVs have fallen while residential have risen. In a couple of successive budget deliberations it has crossed my mind that we should make some adjustment there, that it may not be fair for commercial ratepayers to be reaping the rewards of a fall in the property market while residential ratepayers continue to pay increased rates. However, I have decided not to do anything about that, for a couple of reasons. Firstly, the commercial ratepayers, for the most part, also pay land tax. In addition, we did not reverse the situation when commercial UCVs were on the increase. They were not offered relief, and now that their UCVs are falling there is an argument about fairness and about their being penalised to the benefit of residential ratepayers. So there is an argument there, and it can be debated. As I said, I have considered it in the last couple of budgets and have decided not to do anything about it.

16 June 1994

Mr Kaine also raised the question of the burden not falling equally across the community, and that is something that is also of great concern to me. This year it seems to me that the UCV increases are particularly patchy. There are really only two areas that have been subject to a substantial increase. One is the suburb of Bruce and the other is generally referred to as the inner north of Canberra - the area where I live, in fact. The increases in the inner north are up to about the 20 per cent level. The UCV reflects the marketability, the attractiveness, of an area, and as property owners I guess you should be grateful to know that your property is marketable and attractive and increasing in value. I must say, on a personal note, that when I bought my present house some 10 years ago I bought it thinking that it would rise rapidly in value because of its location and because the area was, in my view, very cheap at the time. It has taken 10 years for my expectations to be realised, and in fact the increase in that area has been very slow indeed. But now it appears that it is catching up with what I would consider to be its true market value. That means that in the older areas of Ainslie, Dickson, Downer, Watson and Hackett we are facing much larger rates bills than in previous years.

Mr Kaine wondered whether there was a fairer system than using the unimproved capital value. I have wondered the same thing myself. I have not come up with one. It has to be remembered that rates are one of the few progressive taxes available at this level of government. As Mr Moore said, they are a tax on unearned profits and they do truly reflect a person's wealth. For many people, of course, that is paper wealth. They are not about to sell their house in order to pay their rates. But it is a reflection of their wealth, and it is a tax on wealth. As Mr De Domenico pointed out, some of the lower rated areas have increased by much more than some of the very highly rated areas. Again, I think it is the market evening itself out somewhat.

There are many issues to do with rates. I think this debate will continue for many years. I do not support the capping of rates. I believe that that disadvantages people in lower rated areas to the benefit of people in relatively wealthy areas. That is just not fair, in my view, so I do not support that proposal. Other proposals will come forward from time to time. If there is a fairer system I would like to know about it because, as other speakers have pointed out, there are some apparent inequities creeping into the system we use. I thank members for their support of the Bill. The upshot of this Bill is to maintain a very important part of the Territory's revenue base and to increase the take to the Government by about the CPI rate, so it is hardly an extravagant measure.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

PERSONAL EXPLANATION

MRS CARNELL (Leader of the Opposition): I seek leave to make a personal explanation under standing order 46.

Mr Berry: Not another one! Did you get the other one wrong?

MRS CARNELL: No; it is a different one.

MADAM TEMPORARY DEPUTY SPEAKER (Mrs Grassby): Proceed, Mrs Carnell.

MRS CARNELL: When the Chief Minister spoke before about my speech on her budget and about our budget strategy, she misrepresented me in a number of places. She said in her statement that under our proposal there would be no buses, that people would have to either walk or catch a cab. In my budget strategy I spoke about contracting out - - -

Mr Connolly: I raise a point of order, Madam Temporary Deputy Speaker. This is not a misrepresentation; this is debating the merits of a partisan debate. This is an extraordinary proposition.

MRS CARNELL: No, it is not at all; I am sorry. She made a comment that you would have to walk or catch a cab. In my speech I said that we were contracting out buses.

MADAM TEMPORARY DEPUTY SPEAKER: No; I think you are debating.

MRS CARNELL: I certainly am not; I am sorry.

Mr Humphries: On the point of order, Madam Temporary Deputy Speaker: Ms Follett accused the Leader of the Opposition of making people walk. It is a fairly severe kind of accusation, and I think she is entitled under standing order 46 to make a response to that wild accusation.

Mr Berry: On the point of order, Madam Temporary Deputy Speaker: Mr Humphries has made the point that Mrs Carnell was responding to an accusation. Of course, she is not entitled to do that.

MRS CARNELL: No, I am not. You are just misrepresenting what I said.

Mr Berry: No. Pursuant to standing order 46, having obtained leave from the chair, a member may explain matters of a personal nature. This is hardly a matter of a personal nature.

MRS CARNELL: It is. Ms Follett personally misrepresented me.

MADAM TEMPORARY DEPUTY SPEAKER: Just a moment, Mrs Carnell. I would like to hear what Mr Berry has to say.

16 June 1994

Mr Berry: The standing order refers to there being no question before the Assembly and says that such matters may not be debated. But it has to be a matter of a personal nature. This is a matter of a past debate.

MADAM TEMPORARY DEPUTY SPEAKER: Yes, I am afraid that I agree with Mr Berry. It is a matter of a past debate.

MRS CARNELL: It is not. You cannot do that.

MADAM TEMPORARY DEPUTY SPEAKER: I am sorry; but it is.

RATES AND LAND RENT (RELIEF) (AMENDMENT) BILL 1994

Debate resumed from 14 June 1994, on motion by Ms Follett:

That this Bill be agreed to in principle.

MR KAINE (7.27): In debating the previous Bill, both sides of the house recognised that there can be a perception of inequity and unfairness in the way that rates and land tax are assessed. Some people feel aggrieved that their rates and land tax have gone up considerably and they do not believe that that is fair. This Bill is the means by which that unfairness can be mitigated to some degree for those who find difficulty in paying the rates and land tax that are levied against them. It can be mitigated in two ways. First of all, some people can claim a concession under certain circumstances. The second avenue open to them is to obtain a deferment of payment.

The amendments essentially do three things. They extend to a new class of people the ability to seek either a concession or a deferment, and that new class of people is essentially people over 60 years of age who fall into certain categories and whose income is therefore low. That seems to me to be an equitable thing. The Liberal Party has no objection to it. The second thing the Bill does is to allow people who are eligible, who previously could exercise only one option or the other - they could either get a concession and get a rebate or seek a deferment - to do both. There did seem to be an inequity in that somebody who could afford to get the concession and then pay the remainder up front had an advantage over those who were unable to pay the remainder of the bill up front. This Bill rectifies that inequity. The Liberal Party sees that as being a reasonable thing to do and supports it.

The third thing this Bill does, in consequence of the change in the method of levying charges for water and sewerage, is to make an adjustment for those people who formerly were entitled to a concession in respect of the base charge. The change in the rate of levying would have put them at a disadvantage under the new system relative to what they had under the old system. This Bill proposes that they be able to obtain a rebate of 65 per cent of the base charge instead of the previous 50 per cent. That simply puts them back to the level they were on before. It does not give them any particular advantage compared to where they were before, but it retains their status. Indeed, somebody on the first floor did a calculation that showed that, whereas somebody under the old system would pay \$240 for their water and sewerage, under this system they will pay \$238.35.

As is said here, in real terms it is about half a Big Mac or a thickshake at McDonald's. The point is that, as I understand it, it was not intended that there be a further advantage or a further concession; it was merely to restore to those people who had had a concession before a concession of somewhat the same value. That sum seems to indicate that it has been pretty well achieved. Again, I believe that to be a reasonable thing to do. It maintains equity for those people, and the Liberal Party supports it.

In examining the matters contained in this Bill, however, I did seek some input from a couple of community groups. One of those was the Council of Social Service, who made an interesting comment. They said that, while they supported what the Bill was doing, there were many other classes of people whose income was no greater than the classes of people who were given concessions under this Act. The people who are entitled to concessions are only those who have certain cards issued to them either by the Social Security Department or by the Veterans' Affairs Department, but there are many people who are not entitled to either of those cards but whose income is no greater than that of those people who are entitled to concessions. They argued, with some logic, that those people ought to be as entitled to a concession as the ones who currently have the entitlement under the Act.

I spoke to them only yesterday, so I have not had time to think their proposition through; but it is pretty obvious to me that, if you were to attempt to extend it to those other people, first of all there is a problem of definition. How do you define the classes of people who would be entitled to the concession? How could you identify them and what sort of system would you have to set up to determine eligibility under a means test for those who do not carry the cards that are currently available to some people? If they do not have a card, how do you establish what their entitlement and eligibility would be? So there is a problem with that.

The second problem that struck me was that, without knowing the number of people that might be encompassed by a broadening of the definition, you could possibly be multiplying the number of people involved by perhaps 10. According to the Chief Minister, there are only 3,300 people in the ACT who are affected by these changes. If you assume that extending the definition could multiply that number by 10, you are talking about 30,000 people. This Bill has been assessed as incurring a loss of revenue of \$160,000, I think it is; so you would multiply that figure by 10 if you were to move to the extent the Council of Social Service is suggesting. Those are only estimates and they may be totally wrong, but there are some problems.

While what the Council of Social Service says does suggest a problem of equity, the other side of the coin is that in trying to eliminate the inequity you have to be careful that you do not put yourself into a big deep hole in terms of the effect on revenue and, secondly, the necessity to set up a fairly comprehensive system to identify and check people's entitlements. So there are problems associated with it, but it is something we should be looking at in the longer term. The three elements of this amending Bill, as I see them, are all supported by the Liberal Party, and we support the Bill.

16 June 1994

MS FOLLETT (Chief Minister and Treasurer) (7.35), in reply: I thank Mr Kaine for his comments on this Bill and for his support of it. I think it is a much fairer system. I remark only that, like Mr Kaine, I am aware that there are people other than pensioners who are on low fixed incomes, and it is certainly my intention to continue to review our concessions regime to ensure that those concessions are well targeted to the people in our community who most need them. That is a continuing process. I realise, for instance, that there are some people on unemployment benefits and on sickness benefits who may be just as badly off as pensioners. Nevertheless, this proposal will be to the advantage of pensioners.

There are all up, I am told, some 7,000 pensioners in the ACT. The figure of 3,300 that I referred to in introducing the Bill was an additional number of people who became eligible under the Commonwealth's changed treatment of its own fringe benefits arrangements. Under those arrangements, there were included some social security beneficiaries and veterans' affairs pensioners, some older long-term allowees, and people 60 years of age or older who have been on some form of income support. That is the 3,300 people who have now been included in the pensioner net, to make up the total number of around 7,000. The continuing review of concessions, I have no doubt, will over time throw up ever greater targeting opportunities, and it is certainly the intention of the Government that that process will continue and will try to make for a fairer regime throughout the community.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

PERSONAL EXPLANATION

MRS CARNELL (Leader of the Opposition): I would like to make a statement under standing order 47, Madam Speaker.

Leave granted.

MRS CARNELL: In the Chief Minister's response earlier today to my budget statement, she made some comments about the statements I made on buses and nursing homes, and also on some figures which she obviously misunderstood. In my statement I made the comment - - -

Mr Berry: I raise a point of order, Madam Speaker. I draw your attention to standing order 47, which says:

A Member who has spoken to a question may again be heard to explain where some material part of that Member's speech has been misquoted or misunderstood, but shall not introduce any new matter, nor interrupt a Member speaking, and no debatable matter ...

We have had the debate. If you want to introduce a new matter, Mrs Carnell, I think you ought to seek leave to move a motion to explain yourself, but I think you are stretching it to use standing order 47.

Mr Humphries: On the point of order, Madam Speaker: This is clearly a matter which falls squarely within standing order 47. This is a matter on which Mrs Carnell has been misunderstood or misquoted in the course of a previous debate. It is a material part of her speech. She is not introducing new matter, she is not interrupting a member speaking, and she is not bringing forward debatable matter, except to explain what has been misunderstood in the previous speech. It is also a matter, I might point out, which does not require leave, even though leave of the house was sought.

MADAM SPEAKER: This one does, actually.

Mr Humphries: I do not think it does.

MADAM SPEAKER: Standing order 46 is my leave; standing order 47 is the chamber's leave.

Mr Humphries: I do not see that it says that, Madam Speaker; but I will take your word for it.

MADAM SPEAKER: By convention, as opposed to the actual wording, Mr Humphries.

Mr Humphries: By convention? All right, Madam Speaker. But I would suggest that this is squarely within standing order 47. If this is not within standing order 47, what is?

MADAM SPEAKER: Normally, it happens straight after a speech is given, but you are quite right. If Mrs Carnell will stick exactly to the requirements of that standing order, she may proceed.

MRS CARNELL: I have every intention of doing that. Thank you, Madam Speaker. - I will be quite brief. In my speech I made the comment that our approach to buses was that we would contract out the services of ACTION buses, which would mean - - -

Mr Lamont: You would sack 1,000 people.

16 June 1994

MRS CARNELL: We might have to do it again if you continue to misrepresent me. On the basis of submissions we have had, this would actually increase services and make services more flexible. In the area of nursing home beds, the Chief Minister said that we were - - -

MADAM SPEAKER: Mrs Carnell, you are debating the matter.

MRS CARNELL: No, I am not. I am stating what she said and what was the truth. How else can I do it?

Mr Berry: Madam Speaker, there has been an imputation about the truth there, and I would ask you to order that that be withdrawn. Mrs Carnell might understand that every time you jump on standing order 46 or standing order 47, you get yourself into deeper water.

MADAM SPEAKER: Mrs Carnell, I will let you explain. I do not believe that you were meaning to impute anything like that.

MRS CARNELL: No.

MADAM SPEAKER: All right; you withdraw that then. I believe that what is being said to me is that, if you juxtapose one matter against another, that is debating the matter. The intent of this standing order is for you to present your set of facts in your own - - -

MRS CARNELL: How can I explain?

MADAM SPEAKER: You can offer the explanation without debate, without juxtaposing. That is, I believe, what I am being asked to interpret. Can you do it in that way?

MRS CARNELL: Yes. Our approach to nursing home beds is that we will sell Jindalee nursing home but, as I said in my speech, we will establish two new 80-bed facilities in partnership with the not-for-profit sector.

The most important area where I was misrepresented was in the area of figures. Page 108 of the budget papers, which were referred to earlier, shows out-turn prices. I am confident that the Chief Minister is aware that out-turn prices - - -

Mr Berry: This is getting to be an extension of the debate.

MRS CARNELL: This is a straight explanation.

Mr De Domenico: Sit down. Do you want to hear the truth or don't you?

MADAM SPEAKER: Order! Nobody was talking about the truth. Mrs Carnell is trying to point out her version of the facts. Would you continue, Mrs Carnell, and stick to the facts.

MRS CARNELL: Out-turn prices are based upon a situation where expenditure is indexed by the non-farm GDP implicit price deflator. Wages and salaries are not indexed at all. Revenue is indexed by the CPI. What that achieves is a situation where you get a totally artificial favourable position. The figures I used were based on constant 1994-95 prices, which is the only way to get an accurate picture.

Mr Berry: Madam Speaker, I ask that you rule that out of order because Mrs Carnell sought to introduce new matter.

MADAM SPEAKER: It is done. I will ponder on that the next time I am asked about standing order 47.

FINANCIAL INSTITUTIONS DUTY (VALIDATION) BILL 1994

Debate resumed from 14 June 1994, on motion by Ms Follett:

That this Bill be agreed to in principle.

MR Kaine (7.43): Madam Speaker, the Opposition - - -

Mr Connolly: Are you going to release the budget strategy or is that still a secret?

MADAM SPEAKER: Order! Mr Kaine has the floor.

Mr Lamont: Mr Kaine, you would have written a better budget document than the one your leader presented.

MR Kaine: Madam Speaker, I want to talk about the Financial Institutions Duty (Validation) Bill, which I understood was the matter before the house.

Mr Lamont: We thought it was too.

MR Kaine: You have been carrying on a cross-chat that had nothing to do with it, Mr Lamont.

Madam Speaker, in the last two Bills that were debated the Liberal Party saw the merit of the Government's position and supported the Bills. I am afraid that in this case we have come to the parting of the ways. There are two fundamental issues here. One is the question of retrospectivity of legislation. The Chief Minister noted when tabling this Bill that she did not particularly like retrospectivity of legislation, but in this case she saw some justification for it. The Liberal Party does not like retrospectivity of legislation either, and we do not see that in this case there is justification for it, any more than in many other cases where it would be in the interests of the Government to claim retrospectivity.

16 June 1994

The more fundamental issue here is the fact that governments, in exercising the taxation power, are obliged to comply with the law. The Government cannot levy taxes, except in accordance with the law. Here we have a case where for some time the law has been defective, and the Government wishes to correct the defect in that law. I see that as a fundamental issue, and it is not one that I can go along with. The law is defective because the Treasurer issued a defective instrument. Nobody else is responsible. The Treasurer herself issued a defective instrument that did not provide the legal basis for collecting a tax. Now the Treasurer wants to say, "Oops; I made a mistake. We will correct the law retrospectively to November 1992 so that my little error is no longer an error".

If we adopt that principle as a matter of practice, the Government can come to us at any time and say, "We have made a little mistake. It will cost us \$50m if we have to pay it all back". In this case it is only half a million dollars, but it could be \$50m or \$100m. So the Government comes along and says, "It does not matter that it disadvantages people who have paid this tax when they should not have been obliged to pay it. We are going to retrospectively apply the tax and, although they were not liable to pay it yesterday, they will be liable to pay it today, even though it goes back to November 1992".

I think the Chief Minister and the Government have to acknowledge that there is a very serious principle at issue here. It is not just a question of whether the Chief Minister put her name to a defective instrument that can now, presumably, be rectified by a vote on the floor of the house. It is much more fundamental than that. I simply cannot support the Government's argument that this Assembly should validate this matter. It is too fundamental an issue for us to do that. If we do, we acknowledge that the Government can never be wrong in levying a tax. No matter how defective its decisions, no matter how defective its law, no matter how defective its instruments, it can simply come to the Assembly later and say, "You did this once before. Therefore there is a precedent, and therefore you should okay it this time". I do not accept that.

I think the Government has a problem. They have collected half a million dollars worth of tax which they did not have the legal backing to collect. Now the Chief Minister is saying, "It is merely a technicality"; but the technicality is a very interesting one. It does not concern only the instrument the Chief Minister and Treasurer signed; it concerns the explanatory memorandum that accompanied it. So now there are two documents that are defective, not just one. One has to ask just how much detail and attention the Chief Minister and Treasurer gives to the instruments she signs.

Mr De Domenico: And how good is the advice that is given to the Chief Minister.

MR KAINE: One can ask that second question, I suppose. The responsibility ultimately resides with the Minister. This is not a case where the Minister can say, "One of my officials made a mistake and therefore I am not guilty". That has been said once before and it did not wash; but this is certainly not a case where that can be said, in my view. This is a case where the Chief Minister and Treasurer herself signed the document and presumably endorsed the accompanying explanatory memorandum. It is not good enough simply to come along 18 months later and say, "I goofed. Just give me the okay and everything will be all right. Those people who paid the \$500,000 tax, which they really

were not liable to pay, can just go away and be quiet and we will not say anything about it". I think that, if the people who paid that \$530,000, I think it is, had known what the instrument that purported to impose this tax actually said, they would have declined to pay the tax, and they would have been perfectly right to do so.

The Government has a problem. I regret to say that, although it may mean considerable effort on the part of the Government to find out who paid the \$530,000 and pay it back, I do not think I have any option but to tell the Chief Minister and the Government that that is what they are going to have to do, because they will not have the support of the Opposition in this matter.

MR STEVENSON (7.49): Governments should not have the power to introduce retrospective laws. It would be interesting to look at whether or not we do. I know that governments do many things, on many of which I would have a different viewpoint as to whether they had that power. I will not mention self-government at this time in any detail. But we cannot have a situation where -
- -

Mr Moore: You are saying that you will not mention it. You did mention it.

MR STEVENSON: I said briefly. We cannot have a situation where, when we make a mistake, we can fix it by saying, "The rules that existed are no longer the rules". Say that someone has scored a century and you say, "I am sorry; we got you out first ball". They ask, "But how is that?", and you say, "We are not only the players, we are also the umpire, and we change the rules when we deem it necessary". The justification really does not make any difference. The principle is wrong, has always been wrong and always will be wrong.

We are supposed to set an example to people. We expect people to follow our example in life. Members of parliament should set the highest example of anybody in the community for ethical activities, for moral viewpoints. We have enormous power. We can introduce laws, but we should not be able to introduce laws retrospectively. Whenever a business makes a mistake, they pay for it. There have been literally thousands upon thousands of times in the last year when the Government has said to businesses and individuals in this community, "You have made a mistake, you have been charged, and you have been fined". They cannot say, "That is not fair. Just because we made a mistake, it should not be that way". We have to operate on the same principles as those on which we expect other people to operate. We cannot have a situation where people in Canberra, and around Australia, increasingly feel that there are two rules - rules for the community and rules for politicians - and that they are different. That is not acceptable. It is divisive in this society.

I suppose that one could say in this case that the Chief Minister was ignorant of the law. In other words, the law was different from what we may have wanted it to be and the Chief Minister was ignorant of that, or she would have fixed it up earlier or not done it in the first place. But ignorance of the law, as we know, is no defence. It will eventually become so. One will be able to go before a judge and say, "Judge, I did not know", and the judge will say, "If that is the case, you are exonerated. I can understand if you did not know. With three million laws written in a way that even lawyers have difficulty understanding, that is a fair defence". But it is not held to be so just yet.

16 June 1994

The important thing here is that we should always maintain the principle and not make the law retrospective. Let us have a look at what we can do in the future to make sure that these things do not happen. I am not sure what that solution is, but let us look at it as a beneficial exercise so that it does not happen in the future. It is very important that we do not pass this legislation.

MR CONNOLLY (Attorney-General and Minister for Health) (7.54): Madam Speaker, both the Liberal Party and Mr Stevenson raise an objection to retrospective legislation, and it is true that retrospective legislation is generally something to be avoided. It is very much a last resort. It would be quite extraordinary and, I would agree, objectionable for us to retrospectively change the land rates. It would be reprehensible for us to come in and say, "We have rated properties at a certain percentage for every year since self-government. We are a bit short on revenue. We will go back and retrospectively impose a higher rate of taxation". That would be quite objectionable, I agree.

If you are to take an absolutist position and say that you should never accept retrospective legislation, I would challenge you to answer a question. Mr Stevenson says that ignorance of the law should be no excuse for government or for individuals. Mr Stevenson, the law is what the courts say the law is. Let us assume that there is a challenge to the imposition of rates under ACT rating legislation. Let us assume that a clever lawyer develops an argument, takes it through every court to the High Court, and the High Court rules that, due to a technical error, due to the draftsman saying "may" rather than "shall" or putting a comma in the wrong place, the imposition of the rates in the ACT under this year's rating tax was incorrect. We had no power to levy the rates and, as we use the same formula for the legislation every year, we have had no power to levy the rates since self-government. Suddenly, some hundreds of millions of dollars of revenue that everybody assumed they had to pay, that they pay everywhere else in Australia and that is quite properly paid is held to have been invalid, due to a court's ruling on a technicality.

Are you seriously saying that if you were in government you would respond to that by saying, "We had better go and borrow \$500m to pay back every citizen in the Territory and not recover the taxation" or "We will shut down the entire health system, the entire education system and the entire police force because we have made a technical error in the imposition of the rate."?

Mr De Domenico: No; the first thing you should do is sack the Chief Minister for allowing it to happen in the first place.

MR CONNOLLY: Mr De Domenico, that is a very smart little political argument; but again, taking Mr Stevenson's point, ignorance of the law is no excuse. The law is what a court says the law is and, with the best advice in the world, you can get it wrong. If you were debating the merits of this Bill I would debate the merits of this Bill, but you chose to debate the principle. Mr Kaine and Mr Stevenson said that you should never impose retrospective legislation and you should never retrospectively correct a tax. Mr Kaine even said that this would apply even if it were \$50m, but it is only half a million dollars.

Mr De Domenico: No; he said, "What if?".

MR CONNOLLY: I say to you, "What if?". Seeing that you take that absolutist view, I would agree that it is something to be avoided at all costs - well, not at all costs. I would agree that it would be reprehensible to go back and impose a higher rate of tax than citizens had paid in good faith; but, to take your absolutist position, are you saying that in the event of a successful challenge on a technicality to the law that imposes, say, the land rates - where you got a comma wrong or a "may" instead of a "shall" - and the rate was imposed improperly, you would willingly say, "We will pay back hundreds of millions of dollars of revenue raised over the years and we will bankrupt the Territory."? Of course you would not say that.

In a situation where a technical error had occurred, where people paid the tax under the full assumption that the tax was payable, until very recently, when there was a change in the law in the High Court, the law in Australia would have been that taxes paid under this technically incorrect process would not have been recoverable, so there would not have been a need to fix it up retrospectively. The law for many centuries had said that in those circumstances the tax was not recoverable. That has recently changed. No-one could have predicted that it would change, so until recently it was not necessary to seek retrospectivity in these circumstances. The court simply said that if you paid the tax willingly, as opposed to under protest, you could not recover the money. Now the view is that perhaps you can recover the money.

You really cannot be absolutist on this proposition. I say to members that, while it is not something a government willingly wishes to do - that is, impose retrospective taxation - it is something that in principle it is appropriate for a government to bring in. If you are happy to say, "We will pay back half a million dollars here", I would at least want something on the record from the Opposition to make it clear that, in the event of the challenge to the rates being successful, you are not establishing the proposition here - - -

Mr De Domenico: Talk about the Bill before the house now. Do not point and slash; just talk about the Bill.

MR CONNOLLY: Listen, Mr De Domenico. Mr Kaine in his remarks said, "We have to establish a principle here. It is only half a million dollars; but it may be \$50m or \$500m in the future, and we have to draw the line in the sand and say 'no retrospectivity'". I say to you that you must seriously reconsider that position because, in the unlikely event of your being in office at some stage in the future, you may face just this challenge. I hope that in opposition now you will take a sensible approach to this rather than some absolutist oppositionist position. It is quite appropriate for a government to introduce retrospective legislation to - - -

Mr De Domenico: Rubbish!

MR CONNOLLY: Again he says, "Rubbish". The Opposition is saying that, in the event of a challenge to the rates Bill being successful, you would pay back hundreds of millions of dollars. Of course you would not. It is quite dishonourable to suggest that you would do that, because we know that you would not. Think carefully before you play opposition politics on legislation such as this.

16 June 1994

I would say to the Independents again to think seriously about the principle at stake here. Technical errors can occur. Even without you knowing it, the law can change. The law is what a court says it is, and there have been many cases where taxation laws, on technicalities, have been struck down. Governments in the past have not had to seek retrospectivity because the courts have said that that money is not recoverable. Now we are in a situation where the courts have said that that money can be recoverable, and the only way to protect the revenue is to introduce retrospective legislation. If you are going to say that that is unacceptable in principle and establish a precedent here that says that you can never impose retrospective measures to correct a technical error, you are putting the future financial stability of this Territory under great risk.

MR HUMPHRIES (8.01): Madam Speaker, Mr Connolly has gone to some length to describe the principles we are working on here; but he has not indicated that he has any principle at all in respect of this matter, any test that he wants to apply to decide how it is that an Assembly like this will try to retrospectively recover money which it has, by a botch-up, collected illegally from the citizens of the Territory. He has attacked the principle that he attributed to us - quite falsely, I might point out - but he has not actually stated any principle of his own for dealing with situations of this kind.

First of all, let me say that the Liberal Party does not take an absolutist position on this matter. It certainly has a grave concern about retrospectivity; but it has never indicated that we would, under all circumstances and in every situation, oppose retrospective legislation. The fact of the matter is that in the past we have supported such legislation. Earlier this year, or it might have been late last year, we passed amendments to the Limitation Act which contained some effectively retrospective controls or limitations on people's rights to sue in our courts. We accepted that because of the circumstances facing us; but, with respect, Mr Connolly has not honestly put before the Assembly the argument as it properly stands, because it is not an absolutist argument for anybody in this Assembly, except perhaps for Mr Stevenson. For everybody else the question is not whether a line is to be drawn but where it is to be drawn.

I ask Mr Connolly to cast his mind back to the debate that we had off the floor of the Assembly some time ago when it became apparent that the legislation which allowed for fines to be levied in respect of random breath tests turned out to be defective. In those circumstances there was, at one stage, a proposition that the Territory would lose considerable sums of money - I think it was several hundred thousand dollars, potentially - by virtue of the fact that people had paid fines for having blown into the bag and having had a positive reading when it was not possible under the legislation for that money to be collected. It turned out, in fact, that those who had pleaded guilty in court could be said to have accepted the law irrespective of its defect, and therefore the amount at stake was much smaller; but, as I recall, Mr Connolly accepted in the end that he would not retrospectively legislate to prevent the small number of people who had not pleaded guilty, who had fought the charges in the court, from recovering money that they had paid as a fine if they chose to do so. In that case Mr Connolly accepted that it was appropriate not to legislate retrospectively.

Mr Connolly: I think you were entertaining supporting retrospective legislation if it had been a large sum.

MR HUMPHRIES: We were prepared to consider it because, as I said, we are not taking an absolutist position. Indeed, later on tonight there will be a further Bill before the Assembly again requiring us to accept retrospective legislation, greatly limiting the potential rights of many people to make claims under the law as it stands today in this Territory. Even principles have a price. It is like the old story about Lord Byron when riding in the coach. He said to the lady in the coach, "Would you sleep with me if I gave you a million pounds?". The lady said, "Yes, I would, Your Lordship". He said, "Would you sleep with me if I gave you five pounds?". She said, "What do you think I am?". He said, "We have established what you are; we are merely haggling over the price". In a sense, that is what is happening here; we are haggling over the price. What is the point at which we draw the line?

Frankly, Madam Speaker, this is the third time, to my knowledge, that we have been asked to retrospectively fix up a problem of this Government's doing. I think, frankly, that this is a place where it is appropriate to draw that line. There is a fundamental principle at stake which goes back all the way to Magna Carta, and that is the principle that parliament, alone, makes laws which raise taxes or which make charges on citizens of a community. That law might be made directly by parliament or by a delegate of parliament, such as a Minister. But in each case the person must be taxed or charged according to the terms of the law which has duly passed through the proper process, not by the terms of a press release, or the terms of an ad in the paper, or a directive from the tax office, or a circular from a tax department; not by those things, but by the law as framed and as properly passed through due process.

It has been suggested that this is a technical flaw which people should not be able to rely upon. Madam Speaker, every day of the week in this country, indeed, all round the world, people emerge from courts having won either a particular civil action or their liberty, in many cases, by virtue of what might be described by some as technical flaws in the law, because the principle we operate on is that people are entitled to rely not on a general understanding of what a law says but on what words are there in black and white on a piece of paper. The words on this piece of paper which made this law did not allow the collection of this money from people who had accounts with banks, building societies, and so on. It was improperly collected, illegally collected. The fact of the matter is that, even if we pass the legislation today, we are changing what was previously illegal into a legal situation. We are allowing money which was taken wrongfully from people to be kept by the Government that took it.

As I have said, we do not take an absolutist position. There are times to draw the line and times when you simply cannot afford to do that. But I think, frankly, that if we do not reject this legislation tonight we are sending the signal to, particularly, the public servants who administer the tax laws in this place that if they make mistakes you can always fix it up by coming back to parliament; that parliament will fix up the problem retrospectively because we do not want to lose any money. We have to send a signal that that is not acceptable. We have to avoid, at every cost, mistakes of this kind, and passing this legislation tonight sends the wrong signal entirely.

16 June 1994

MS SZUTY (8.08): I, too, oppose this legislation, and I, too, have grave concerns about legislation which is retrospective. As a member of the Scrutiny of Bills Committee, the issue is one that I, particularly, have to deal with on a number of occasions. The Scrutiny of Bills Committee of the Assembly met yesterday and Professor Whalan had a look at this piece of legislation. He made the following comment, which forms part of our report:

The Bill imposes the financial institutions duty for the period 1 November 1992 up to, and including, 16 May 1994. The reason for the retrospectivity is described fully in the Chief Minister's presentation speech.

Indeed, it is, Madam Speaker. As a member of the Scrutiny of Bills Committee, I think it is unfortunate that the committee did not pick up the error at the time that it occurred. The Scrutiny of Bills Committee would have considered the issue around November-December 1992.

In closing, Madam Speaker, I would like to take issue with some of the comments that Mr Connolly made in his remarks. We are not talking here about commas, punctuation, or words that have been left out of a particular determination. We are talking about a determination which did not even exist. I think that that is an important issue for the Assembly to consider again in terms of where we draw the line in dealing with this type of legislation.

MR MOORE (8.10): That the determination did not exist requires some understanding of what happened. As part of the normal process of putting in a new determination, the Government wipes the slate clean, in effect. If this Bill is lost this evening, the only people to gain will be a set of bankers. The chance of the money being returned to the people from whom it came is very slim. Apart from that, everybody understood at the time that they would have to pay the financial institutions duty. There was no doubt in people's minds that that was what they ought to be doing. There was no doubt in the minds of members here that that was what was going on. There has been an anomaly. It was a mistake. The Chief Minister has admitted that there was a stuff-up. Indeed, there was on this issue.

Mr Humphries was talking about the principle. Where do you draw the line? On what set of parameters do you operate in making a decision like this? In making a decision like this, I ask myself: Is somebody going to consider themselves cheated by this piece of legislation? Effectively, will somebody be cheated?

Mr Stevenson: Everybody in the country.

MR MOORE: Apart from the absolutist view of Mr Stevenson, the answer to this question is no; nobody will feel that they were cheated, because everybody believed that they ought to be paying the financial institutions duty, and that is what has been collected.

Mr Cornwell: That is no basis whatsoever for passing it. That is morally wrong.

MR MOORE: I hear an interjection from Mr Cornwell that that is morally wrong. I am sure that there are many issues upon which Mr Cornwell thinks that I act morally wrongly, and that will continue.

Mr Cornwell: And this is one of them.

MR MOORE: He may consider that this is one of them. For those reasons, Madam Speaker, I think it is appropriate for us to correct an anomaly, and I do it reluctantly. I do it most reluctantly. I am not going to join in what I think is largely a political point scoring exercise on this issue. There is an important issue being raised here. By the tone of the Assembly at the moment, every single member who sits here realises the magnitude of making a decision that provides for retrospective legislation. None of us are going to make that decision lightly. Some of us have decided not to be part of that decision on this occasion. Others of us have decided differently. When people paid this financial institutions duty they believed that it was part of the duty that was being taken as part of their taxation system. That being the case, Madam Speaker, I shall support this piece of legislation.

MS FOLLETT (Chief Minister and Treasurer) (8.14), in reply: Madam Speaker, the facts in this matter are quite clear. When the determination was made setting the rates of financial institutions duty the instrument was incomplete. It was incomplete because the short-term dealing rate was omitted from the instrument.

Mr Humphries: It was wrong. It was stuffed-up. It was botched.

Mr De Domenico: Bad advice. It was not the first time that you got bad advice either.

MADAM SPEAKER: Order!

MS FOLLETT: Thank you, Madam Speaker. Madam Speaker, I do not contest those facts and I very much regret that matter. I very much regret having to bring before the Assembly what is, in fact, retrospective legislation, because I believe that that is not a good way to make laws. Nevertheless, there is an issue here of just plain commonsense.

What would happen, Madam Speaker, if this Bill were not passed? Members should be aware that if the Bill is not passed it is possible that financial institutions and the short-term dealers could well seek a refund. However, and this is very important, Madam Speaker, under section 95C of the Taxation Administration Act the commissioner shall not refund tax that has been passed on to a third party unless the taxpayer satisfies the commissioner that the taxpayer has refunded the tax to the third party.

16 June 1994

So, Madam Speaker, unless the commissioner was satisfied that those financial institutions, those dealers, had returned the tax to their clients, those requests for refund would be denied by the commissioner. It seems to me, Madam Speaker, that that could lead to some very costly litigation. As I say, I think commonsense dictates that we take a simple corrective measure, however unwillingly, however reluctantly, and set the matter right now.

I should also comment, Madam Speaker, that no-one has picked up this error, except the Revenue Office. None of the financial institutions have picked it up; the Scrutiny of Bills Committee did not pick it up. Had I done nothing about it, probably nobody would have picked it up. We could have just sat there collecting the tax with the incorrect instrument ad infinitum. Members opposite would never have known about it, and would never have had the opportunity to make their sanctimonious little speeches. However, it was picked up by the Revenue Office and, far from trying to hide it, they have come up with a proposition to correct the matter. I think that is admirable on their part. Madam Speaker, as I say, I regret that the error occurred; but I do think it is only commonsense to try to correct it. I commend the Bill to the Assembly.

Question put:

That this Bill be agreed to in principle.

The Assembly voted -

AYES, 9 NOES, 8

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

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

LOTTERIES (AMENDMENT) BILL 1994

Debate resumed from 17 May 1994, on motion by Ms Follett:

That this Bill be agreed to in principle.

Mr Kaine: Madam Speaker, Mr Connolly made - - -

MADAM SPEAKER: I am sorry, Mr Kaine; Mr Lamont was a bit slow in getting to his feet. He had the call.

Mr Humphries: For what?

MADAM SPEAKER: It is the Lotteries (Amendment) Bill and Mr Lamont adjourned it.

Mr Lamont: That is right. You have spoken already.

MADAM SPEAKER: I am sorry, Mr Kaine.

Mr Humphries: No, he has not. You adjourned it because he was not here at the time.

Mr Lamont: No; Mr Kaine has already spoken on the matter.

MADAM SPEAKER: That is right.

Ms Follett: He has. He opposed it vehemently.

MADAM SPEAKER: Yes, on 17 May, Mr Kaine.

Mr Kaine: I did not think I had spoken on it.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (8.20): Madam Speaker, I wish to speak in support of the Lotteries (Amendment) Bill and to take this opportunity to comment on various points raised by Mr Kaine during the last debate on the Bill. I can remind Mr Kaine of what he said; it appears that he has forgotten.

As outlined in the Chief Minister's presentation speech, this Bill clarifies the common understanding of the rules of instant lottery games - that is, it confirms the circumstance under which prizes have always been paid for a winning instant scratch lottery ticket. Since the publicity over the Burgin case many holders of instant lottery tickets have approached New South Wales Lotteries and Tattersalls with claims for prizes - over 3,000 in New South Wales alone. This includes a large number of people with tickets with wording that is different from that on Mr Burgin's ticket. These tickets were bought after the wording was changed in 1990. Madam Speaker, Mr Kaine's comment on the potential liability of Tattersalls being \$342 billion calls for some clarification. That figure was advised by Tattersalls as the theoretical liability of all Burgin-style tickets on the market at the time the Burgin claim was made.

16 June 1994

Madam Speaker, as we all know, an element in the attractiveness of scratch lotteries is the suspense engendered as players systematically reveal the hidden combinations on their tickets. The suspense is deliberately heightened by combinations which hold out the chance of winning until the last symbol is revealed. Combinations of three pairs of matching symbols or numbers are theoretically extremely common. Hence the staggering potential for liability from the Burgin decision. Clearly, Madam Speaker, that amount will never be claimed, since most people would have disposed of their tickets in the belief that they did not contain winning combinations. However, if the ACT is left as the only jurisdiction in Australia where these claims could be made, such claims will arise, and the consequences for the Territory's revenue could potentially be the elimination of revenue from sales of lottery tickets in the ACT. This year, Madam Speaker, the ACT expects to receive \$11.3m from such sales.

Madam Speaker, Mr Kaine stated that the Opposition was not going to support clause 5 of the Bill on the basis of its general retrospectiveness. The Government, as a general rule, also does not support retrospective legislation; but most retrospective legislation seeks to change previous rules. The purpose of this Bill and similar legislation now introduced by all State governments, Labor and Liberal, is to reinforce and confirm existing rules. Mr Kaine stated that this Bill has to do with people who have bought tickets in the past, and that the Government will set aside pre-existing rights of these people. Do you remember your speech now, Mr Kaine?

Mr Kaine: It sounds like a good speech. It must have been mine.

MR LAMONT: Quite frankly, it was forgettable. Madam Speaker, I can understand why he has forgotten. The fact of the matter is that the vast majority of players understood and accepted what the rules for winning in instant lotteries were. This Bill will, in fact, prevent an injustice to those persons who understood the intended meaning of wording on tickets and threw away losing tickets. It would hardly be fair and reasonable if the players who played by the rules and discarded "non winning" tickets were disadvantaged, while those who knew that their tickets were losers but kept them were now to derive a windfall gain.

Members will be aware of the circumstances of the ACT Supreme Court case, *Steele v. Hornsby*. During the course of the debate on the New South Wales legislation, the New South Wales Opposition sought to move an amendment which would have the effect of exempting any court proceedings - and there were three - initiated before 16 June 1993 from the provisions of the Government's retrospective amendments. Madam Speaker, 16 June 1993 is significant as it is the date on which the New South Wales Government announced that it would be introducing legislation to confirm the general understanding of, and the intention behind, instant lottery games. Even the New South Wales Opposition's unsuccessful amendment would not have assisted the plaintiff in the ACT case because it was initiated in the ACT Supreme Court on 3 August 1993, by which time even the New South Wales Opposition, in moving its amendment to the New South Wales Bill, was satisfied that such claims were opportunistic and could not be supported. In the 10 years of operation prior to the

Burgin case New South Wales and Victoria have never faced a court case in relation to instant lotteries. In that time more than 1.5 billion tickets were sold in New South Wales alone. This must surely reinforce the point that the wording on the tickets was properly understood and accepted by the vast majority of players.

Madam Speaker, this Bill is not aimed at people who genuinely understood that their tickets were winning tickets at the time of the game. Rather, it is aimed at preventing injustices from opportunistic claims resulting from publicity surrounding the Burgin case. Contrary to Mr Kaine's comment that this Bill will set aside the rights of individuals that exist today, this is not a case where people played a game to gamble on an outcome and are now having the rules changed. The reverse is the case. The general understanding of the rule is being confirmed.

Mr Kaine also commented that the Bill sets aside the rights of individuals in favour of two non-ACT corporations. This piece of parochial hyperbole should be put in perspective. These non-ACT corporations will contribute over \$11m to the Territory's Consolidated Revenue this financial year. There are 66 small businesses and hundreds of employees who rely on the existence of these organisations in the ACT. This Government is not prepared to surrender any part of this revenue or to put at risk the viability of those 66 small businesses. Nor is it prepared to ask the people of the ACT to subsidise instant lottery claims which are opportunistic, or claimants who lack genuine belief in the moral righteousness of those claims.

The implications of any delay cannot be overstressed. Following the outcome of the Burgin case, over 3,000 claims totalling \$75m were submitted to New South Wales Lotteries. Without this legislation in place in the ACT, before the outcome of the ACT case, there could be no assurance that similar numbers would not arise here in the Territory. Madam Speaker, as a minimum, it could reasonably be expected that the current revenues from the sale of lottery products would be wiped out.

Madam Speaker, the ACT is not alone in having to introduce legislation to prevent significant losses to revenue as a result of the Burgin matter. The Victorian, New South Wales, Tasmanian, South Australian and Western Australian Liberal governments and the Queensland Labor Government have all passed legislation to clarify retrospectively the intention of scratch lottery games which used wording similar to that in dispute in the Burgin case. Mr Kaine must understand the importance of safeguarding this source of revenue for the Territory. If we are unable to guarantee to the New South Wales and Victorian governments that the ACT is not a haven for opportunistic actions against lottery agencies, there is no guarantee that New South Wales Lotteries or Tattersalls will continue to sell these products in the Territory.

Madam Speaker, the agreements between the ACT and the New South Wales and Victorian governments are due for renewal in July next year. The Liberals' opposition to clause 5 is putting the ACT in an extremely difficult negotiating position, which, in every likelihood, will result in the Territory relinquishing significant revenue over many years. As I have already said, Madam Speaker, no government feels comfortable about introducing retrospective legislation. However, this legislation does not change pre-existing rules. It simply confirms existing rules by clarifying what has always been the intention of instant lotteries.

16 June 1994

MR HUMPHRIES (8.29): As I indicated in respect of the previous debate on the Financial Institutions Duty (Validation) Bill, the Opposition does not take an absolutist position on this matter. As members can see by the amendment which has been circulated in Mr Kaine's name, it is the intention of the Opposition to ensure that the thrust of the retrospectivity provided for in this Bill is successful; but we do believe that there is one limitation to be drawn on that, and that is the purpose of the amendment before the house.

At the outset I make one point about what Mr Lamont has just said. He said that the legislation does not change the rules; it merely clarifies them. With the greatest of respect, that is not the view which was taken by the New South Wales Supreme Court in Burgin's case. In that case the court said very clearly that the rules as they stood allowed Mr Burgin to successfully make a claim for a prize. The court interpreted the rules and found that that was the case. With great respect, what we are doing is changing the rules. We might not be changing the intent of the rules; but we are changing the effect of the rules, or the letter of the rules, to make it clear that these sorts of claims, even though they were upheld by the New South Wales Supreme Court, in future will not be tolerated - and nor will claims from the past, with certain exceptions. It is quite wrong to suggest that we are not changing the rules. We are changing the rules.

Mr Lamont: No, we are not.

MR HUMPHRIES: With great respect, that is not what the Supreme Court of New South Wales has found. We are acting in order to plug the breach in the dyke, as it were, which the court opened in that case. Your advice that it is not a change in the rules is quite wrong.

Madam Speaker, we take the view that the large sums of money involved in this matter are not conducive to giving open slather to people to make claims of this kind against the Territory and the lottery agencies that operate in this Territory. As I say, in that respect we are drawing the line somewhere in the sand, at a place where we do not cost the Territory very substantial sums of money. I agree with Mr Lamont that \$11m, or whatever it might be, is a substantial sum of money.

I would have thought, however, that Mr Moore and Ms Follett would agree to at least the thrust of the amendment that has been put forward by the Opposition in this matter because, in the earlier debate, they argued in that case that there should not be any allowance for people who paid the money under the illegal law to get a refund because no person had made a claim based on that inaccurate law. Nobody had come forward and said, "My right is this and I want to enforce it". It is different in this case. Someone has done that - not just in New South Wales in the case of Mr Burgin, but also here in the ACT.

One individual has commenced an action in the Supreme Court of the Australian Capital Territory to enforce what has been decided by the New South Wales Supreme Court is her right to obtain a prize under the ticket that she holds. I assume, of course, that she will succeed in the action. That, of course, remains for the court to decide. If it were the case, for argument's sake, that she did succeed at the end of the day, then she has a right.

She is attempting to enforce that right based on the principle found by the New South Wales Supreme Court. Madam Speaker, I think that, on the criterion which was employed by Mr Moore and Ms Follett, they ought to support this amendment; they ought to acknowledge that at least those who have made that claim based on what they understand to be their right ought to be able to proceed to obtain a prize.

The argument that Mr Connolly, Ms Follett and Mr Lamont put forward about people's general understanding and motivation in these matters is very worrying indeed. If we accept that the rules or the laws of the Territory operate not on the basis of what they say but on the basis of what people's general understanding of what they say is, what they are meant to say, or what the mandarins in the tax department who have drafted them think they should say, we are facing a serious problem. It is not easy to interpret what those things mean.

As it happens, lots of people in this community - probably everyone in this chamber at some stage or another - have bought a scratch lottery ticket and have rubbed the little squares off to see whether they had a prize, and we all in those circumstances expected to have to obtain three numbers of the same sort to be able to win a prize. That is the general understanding. It is fairly clear in this case. But it is equally easy to argue that, in many other cases where these things might apply, the common understanding might not be so easily ascertained. Where is the line to be drawn then? How does the Government divine, other than through examining the entrails of birds, what it is that most people think about these things? Does it have an opinion poll? How does it work out what is the common understanding, which is the basis, they say, for the law of the Territory? It is very difficult.

The same argument can be applied, with great respect, to what I said about what Mr Connolly had said previously about random breath test fines. Most people understand that if you blow in the bag and the reading shows over .05 you are liable for a fine in the court. Thousands of people have been caught on that basis and have been forced to pay the fine. If the common understanding is that you do that, why did not Mr Connolly come to this place and legislate retrospectively to prevent people who had been in that position from going back and claiming a refund of the fine that they had paid? He did not do that.

Madam Speaker, again we come down to inconsistency in the Government's approach. The arguments are very weak. They are very wishy-washy. They seem to be floating all over the place. Frankly, I think we all know what the real argument is. It is about dollars. When lots of money is at stake, the principle goes out the window. I have to concede that where a great deal of money is at stake the principle is not worth as much as that. If there were \$451 billion worth of prizes potentially at risk, I would have to concede that no principle is worth that much money. I do think that in this case it is appropriate to at least consider the rights of persons who, acting on the law as it stands, have brought an action in the court to enforce their rights. That, Madam Speaker, is the reason for the amendment which I have foreshadowed for the detail stage of this debate.

16 June 1994

MR STEVENSON (8.36): Mr Connolly said that the law is what the courts say it is. We have found out tonight that that is not true. The law is what we say it is. If the courts get it wrong, we will correct them; and, if they get it wrong again, we will correct them again. There never is a problem for us. The court will make a chronological decision, but we can always beat that. We can say, "Ha, we have got you. Before you made your decision we changed the law". That is an appalling situation.

Mr Humphries mentioned that there is an expectation of what one needs to win on those scratch cards. That was not my expectation - not that I would buy them. I did not know that you were supposed to marry up three numbers. What I would have done with a scratch card is read the instructions and then think, "That is interesting. Am I a winner or not a winner? I do not understand the instructions". Let me tell you about an interesting situation. One of the very large department stores in Canberra said, "We will match the price of any store. You bring us a sheet with the advertised price on it and we will match their price". I was nearly going to go along there with an advertised price of \$130 for a \$1,500 refrigerator. The advertised price was \$130. Mark my words, I would have got a refrigerator for \$130, possibly after a bit of a disagreement. I did not do it because I, personally, did not agree with doing that. That was my viewpoint.

Mr De Domenico: You already had one in your office, did you not?

MR STEVENSON: That was not quite the case. I could have got a TV set, a lounge suite and all the other things they advertised.

Mr Berry: But they are all up in your suite anyway. You would not want another lot.

MR STEVENSON: No, I am sorry, Mr Berry; they are up in your suite, along with a shower and other things. The point is that the company would have said, "Look, that cannot be right. We do not have any responsibility for supplying all these things because we did not mean that. No-one would hold that we really meant to supply people \$1,500 fridges for \$130. After all, it costs us a lot more than that to buy them. Obviously, it was a genuine error. No-one would suggest that that was our intention". I think we all understand, or we should understand. We know what the courts would say. They would say, "Tough", and fair enough too. What do errors mean to us in life? They teach us lessons. What we have learnt tonight is a principle about money. It might not be worth this much money; but, heavens above, it is worth this much money. That is all that principle means here.

I would be more of a mind to vote no to retrospective legislation no matter what; but you say, "Hey, but what about government?". I will not talk about this Government; but I will talk about another one, to be fair on the subject. Let us say that a government mucked up to the tune of not \$50m but half a billion dollars and could not collect the rates for the past five years because the legislation was not valid. We would have to do some fast thinking to get agreement in the community. We would have to work out how to do without a lot of money, and so on. I suggest that that would be a damn useful practice when it comes to government. I mean that. I could talk for a long time about why it

would only benefit the community to stop taking all their money. It is not as if they will not spend it. They will spend it on something else, and it will circulate through society. We will all benefit. We do not need to tell them what to do with it. Our society would be far more prosperous, and I think most people know it. Politicians certainly are not going to vote that way for a little while yet, but things are changing. It will come.

This is a very important matter. We cannot have a situation where we keep changing the rules. Fancy two instances in one day! We would have to go into the *Guinness Book of Records* on this one.

Mr De Domenico: We have not finished yet.

MR STEVENSON: That is right; the day is but young. Mr Humphries said that the Opposition would agree with the general retrospectivity, but not in regard to a case already before the court. That should not even need to be said. I do not agree with the first point. No-one should disagree with the second. Mr Lamont stood up and made a point. Where is he?

Mr De Domenico: He is over there with Ms Szuty.

MR STEVENSON: There he is. He stood up and made a point strongly, in a loud voice, and he made it again and again. He talked about businesses and money, all this money. He said that these particular companies are worth a lot of money to us. So, because of that, we will change the law for them. Is that the correct principle? I suggest not. If we have a lot of people who think that way, we are in real trouble.

Mr Berry: Who provides the services?

MR STEVENSON: Who provides the services? Businesses. If you make a mistake when in business you wear it. You should wear it. Say a business makes a mistake and, because they have a couple of hit men, they decide not to pay the money. They send someone around to make an offer that is too good to refuse. Is that not, in fact, what we are doing here? We are saying that the New South Wales Supreme Court was wrong.

Mr Humphries: For us it is legal.

MR STEVENSON: At the moment it is the law. We are changing the law. We are saying that the law was wrong, and we are going to prove it at the point of a gun. When I say "at the point of a gun", is that not the truth? If people do not do what we want we fine them, and if they do not pay we go and collect it. If they try to resist we arrest them, and if they resist arrest we will shoot them. We are the only people, supposedly legitimately, who have power to enforce at the point of a gun.

16 June 1994

Mr Berry: So hospitals and schools are provided by businesses?

MR STEVENSON: Give me an interjection that I can understand and I will be happy to reply. The point is that Mr Connolly should be right when he says that the law is what the courts say it is, and it should not be misinterpreted. In this instance that is not going to be the case. The New South Wales Supreme Court has stated what the law is, and the ACT Supreme Court probably will do the same here. That is the law. Business is a gamble, of course. It appears that the only place in all of the country where there is no gambling is the parliament. Why is there no gambling? Because when we lose we change the rules.

MS SZUTY (8.46): Madam Speaker, I have spent some time considering the issues in relation to the Lotteries (Amendment) Bill. My interest was specifically aroused in the first instance, again, through my membership of the Assembly's Scrutiny of Bills Committee, which commented on the retrospectivity elements proposed in clause 5 of the Bill. I will remind members of what clause 5 says under the heading "Application":

The Principal Act as amended by this Act applies in relation to tickets in instant lotteries whether purchased before or after the commencement of this Act, including any ticket in relation to which proceedings have been instituted but not determined.

The Scrutiny of Bills Committee commented on this matter as follows:

The main reason for the amendments is to outlaw possible applications of the decision of the New South Wales Court of Appeal delivered on 19 May 1993 in *New South Wales State Lotteries v Burgin*, which decided that three different pairs of numbers would qualify for a prize.

The Scrutiny of Bills Committee also mentions clause 5 of the Bill and goes on to say:

The presentation speech acknowledges that there is "a further matter in the ACT Supreme Court involving a dispute on the wording" of a scratch lottery ticket.

The amendments reverse the New South Wales Court of Appeal's decision in relation to scratch lottery tickets sold in the future. However, in addition, clause 5 also retrospectively negates the possible rights of claimants under such tickets bought in the past and also retrospectively negates the possible rights of a claimant already before the ACT Supreme Court.

I wanted to look into the issue more thoroughly, Madam Speaker, and I would like to thank the officers of Treasury who made themselves available to brief me and to collect and provide further information for me. The information I acquired included copies of similar legislation proposed and/or passed in other jurisdictions in Australia, and a copy of proceedings of the New South Wales Parliament where the issue was discussed at length,

with particular reference to the Burgin case referred to in the Scrutiny of Bills Committee's report. As members will be aware, the New South Wales Parliament decided to exempt the Burgin case from the retrospectivity provisions provided for in the New South Wales Bill.

As the Scrutiny of Bills Committee report says, Madam Speaker, a potential claimant is already before the ACT Supreme Court. I wanted to establish the relevant dates which were pertinent to the Burgin case in order to determine whether I believed that the ACT case, the Steele case, should be exempt from the provisions of the ACT's Lotteries (Amendment) Bill. The relevant dates are as follows: The date of the original Burgin case decision was 12 March 1993. On 19 May 1993 the Burgin case decision went to appeal. The appeal by New South Wales Lotteries was unsuccessful. On 3 August 1993 the Steele case was filed in the ACT. On 9 August 1993 a subsequent application to take the Burgin case matter to the High Court was denied. On 8 September 1993 and 14 September 1993 the New South Wales Lotteries (Amendment) Bill was debated and passed in the New South Wales Parliament.

It can be seen from these dates and the sequence of events, Madam Speaker, that it makes sense for the Steele case to be exempt from the retrospective provisions which this Assembly is asked to apply. As this matter has yet to be determined by the ACT Supreme Court, a decision still will need to be made on the basis of the merits of the case, or, alternatively, Tattersalls may agree to settle the claim of \$110,005 at this time. Madam Speaker, most members are loath to pass retrospective legislation. By doing so today, we effectively prevent a number of people from pursuing potential claims. I have presented argument today as to why the Steele case, in particular, should be exempt, and I urge members to consider very carefully the amendment foreshadowed by Mr Humphries and which will be moved by Mr Kaine.

MR MOORE (8.50): There are a couple of points, I think, that need to be added to what has been said so far. Ms Szuty mentioned some dates. I believe that she left out the June announcement by the New South Wales Government that they would act on this issue. We accept as general parliamentary practice that, when a government makes an announcement, that is the date on which a piece of financial legislation will take effect. It has been a quite common practice for governments to make announcements about such things. Let me give you an example, Madam Speaker. When the Federal Government brings down its budget it says that it will collect tax or an excise on wine or cigarettes, or something like that, as of that date. It begins as of the date of the announcement, even though the legislation will not be passed until some time later. We accept that.

With that issue taken into account, there is another issue which was raised by Mr Humphries in his speech. I think he referred to Ms Follett before; but he also said that, if I were to be consistent in my approach when talking about harm to an individual and how I had made my decision on the previous Bill, I would support the amendment that is to be moved by Mr Kaine. That is the consistency that I aim for and that is why I am going to support the amendment to be put by Mr Kaine. An individual has her case

16 June 1994

before the court and it is up to the court to make a decision. I believe that the amendment to be moved by Mr Kaine will allow the court to do just that and to give her the justice to which she is entitled. It is not our role to do that. It is difficult enough to deal with retrospective legislation anyway; but to do something which undermines somebody's right to go to court, I think, would be inappropriate. I reluctantly support the legislation in principle but with the proviso that I will support the amendment to be put by Mr Kaine.

MS FOLLETT (Chief Minister and Treasurer) (8.52), in reply: I, again, accept members' reservations about passing legislation which is retrospective in effect. Nevertheless, as I said in my introductory remarks, and as Mr Lamont said, the purpose of this legislation is not to change any law; nor is it to change the meaning of any law. It is to reinforce or to confirm the meaning of the law as it stands, and I think that is an important distinction.

In the debate on the last Bill members were concerned about the setting of a precedent by passing retrospective legislation. I would like to repeat to them, in dealing with this Lotteries (Amendment) Bill, that the precedent has already been set. It has been set by Victoria, New South Wales, Tasmania, South Australia, Western Australia and Queensland, all of whom have passed this kind of legislation. It is not as if the ACT is doing something unusual or taking a one-off position here. We are doing what all of the States, but not the Northern Territory, have already done, and I think it is a sensible course of action.

Members have made much of the fact that there is a case before the courts, the *Steele v. Hornsby* case, and that that case has some right to be heard. The situation in New South Wales at the time that they passed their legislation was that there were many, many cases before the courts. Only the *Burgin* case had been heard and decided, and that was why it was exempted. The remainder of the cases, and there were well over 1,000, were simply ruled off by the passage of the New South Wales legislation. The New South Wales Government agreed that, while their retrospective legislation would specifically exclude the *Burgin* judgment because it ought not be ruled against in the parliament, all other claims were to be held over until the passage of that retrospective legislation. Once that legislation was passed, all of those claimants were notified that they were not to be paid. So, again, Madam Speaker, the precedent has been set by the New South Wales Parliament. I ask members to think about that in looking at the amendment that has been foreshadowed.

Madam Speaker, Mr Stevenson said that if we were to pass this legislation we would be saying that the New South Wales Supreme Court was wrong. I, for one, disagree vehemently with the ruling of the New South Wales Supreme Court. I hold the opinion that their ruling was silly. The fact is that in those years I bought God knows how many scratch lottery tickets and threw them out because I did not win. So, Madam Speaker, did thousands and thousands of other people. Even if this legislation had not come to my attention, my actions as a punter speak volumes. I do not agree with the New South Wales Supreme Court's interpretation. I know how you win on a scratch lottery ticket,

and the Burgin case was not it. It had nothing to do with it. I assure members that my interpretation is that of the overwhelming majority of Australians who gamble in this way. The Supreme Court case in New South Wales came as an enormous surprise, as it must have done to New South Wales Lotteries. Madam Speaker, you are allowed to disagree with the courts. I am told that the High Court would not take an appeal on this matter, so they were stuck with that decision of the New South Wales Supreme Court. Madam Speaker, I believe that the issues are clear to members. It is retrospective legislation, but this has been done by every other State. I commend the Bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR HUMPHRIES (8.57): Madam Speaker, I move the amendment to clause 5 which has been circulated in Mr Kaine's name. It reads:

Clause 5, page 2, lines 11 and 12, omit ", including any ticket in relation to which proceedings have been instituted but not determined", substitute "other than any ticket in relation to which proceedings in a court have been instituted before 4 August 1993".

It was suggested by Mr Lamont in the course of his remarks that this amendment threatened the ACT's continuing role in a contract with New South Wales Lotteries and Tattersalls. That, I think, is complete hyperbole. First of all, the action would have to succeed for it to cost anybody a penny, at least in terms of any claim for a prize. Secondly, it is only one claim, and only one claim is being exempted by this amendment. I can say with considerable certainty that this one exemption would not make any difference to the Victorian lotteries people. I might indicate to the Assembly that I have had the privilege of discussing this matter directly with the Treasurer of Victoria. He spoke to me by telephone about this matter. Mr Stockdale lobbied the Liberal Party in the Assembly to support this legislation of the ACT Government's. When I spoke to him I put to him that we felt that it was appropriate to exempt at least that person who had already commenced an action in the Supreme Court. I asked how he felt about that, and I can indicate that he felt that it would make no difference one way or the other. With great respect, I would prefer to believe what the Treasurer of Victoria has told me in respect of the attitude of the Victorian Tattersalls concern rather than what Mr Lamont has told the Assembly this evening.

16 June 1994

On the question that the Chief Minister raised about what she called the silly ruling of the New South Wales Supreme Court, I should make it clear that that ruling, however silly, was upheld by the New South Wales Court of Appeal, and was further upheld, in a sense, by a judge of the High Court of Australia by refusing to give special leave for the appeal to go to the High Court. It is not as if one judge has gone haywire, has had a bad day or something and has made a bizarre decision. It is a decision which, if you examine the words used on the scratch lottery cards, has some credibility. The words, as I understand them, were, "Match three numbers". If you have two pairs of three numbers you have matched three numbers. You can see the argument that was put forward and it has some credibility, so I do not think it is entirely without merit. I accept that it is not the understanding of most people who play scratch lotteries, indeed probably almost all of them; but it certainly is not an entirely unsustainable argument.

A point was raised by Mr Moore about announcements that the Government is going to do something in the future and will make the date retrospective to the date on which they make their announcement in a press release. That is often called legislation by press release and is a practice that is greatly frowned upon by all Australian governments, as I understand it, in this day and age. I understand that a couple of years ago some changes were foreshadowed in a press release, were subsequently announced in a Federal budget, and in fact were struck down by the High Court, I think on the basis that there was a discrepancy, or a potential discrepancy, between what was in the budget and what was in the press release.

The point about the danger of this problem is that you cannot work out from a press release, with the language that politicians or their minders use in a press release, precisely what the law itself is going to say when that law is enacted. It is extremely dangerous to expect people to understand their rights from a press release which can be found in only certain places, and which, in fact, gets interpreted in the media, as we know, sometimes in a quite distorted fashion before the average citizen in the street works out what the situation is. It is quite inappropriate to rely on that, and the circumstances where that is used are very limited in the Australian context, if used at all in this day and age.

Madam Speaker, this amendment is a sensible one to protect the rights of a person who has already commenced an action in the court. Contrary to what the Chief Minister said, when the New South Wales Government made its announcement the Burgin case had not been fully resolved. It had yet to go to at least the High Court, and I think also the Court of Appeal.

Ms Follett: There had been a judgment on it.

MR HUMPHRIES: Certainly, at least the High Court. There had been a judgment, yes; but it was still being appealed. It was still being fought over. The matter was not yet resolved. I think in those circumstances we are dealing with exactly the same situation here. The matter before the ACT Supreme Court has not been resolved, and it should be resolved by the court and not by this parliament.

MR STEVENSON (9.03): The Chief Minister suggested that she knew what the words on the scratch tickets meant. She said that most people would understand. I cannot comment on that one way or the other; but let me tell you of an interesting situation, and there are many like it under the law. How many of you have checked your vehicle speedometer to make sure that when it is reading 100 kilometres an hour you are actually doing 100 kilometres an hour? There is one hand up. Now there are two. Okay. I know that there is a small percentage. The point is that most prudent motorists do not do that. Most prudent motorists do not check their speedometer at all, let alone regularly. The reason why some people might check it is that they have heard of someone being reported in the past, or they know that speedometers can read incorrectly. I suggest to you that most people have no idea that their vehicle speedometer can show that they are doing 100 kilometres an hour when they are doing 115 kilometres an hour or whatever.

Mr De Domenico: I just stick to cruise control.

MR STEVENSON: Exactly. That is what most people think. What happens under the law? Does that help you? Madam Speaker, it is a little bit hard to - - -

Mr Lamont: Hear yourself talk?

MR STEVENSON: No; I just do not want to kick the volume up any louder. I thought I would get the noise down a bit so that I would not have to raise the volume.

Mr Berry: We would like you to be relevant.

MR STEVENSON: What is not relevant about the fact that most people would not know that, yet it is no defence under the law? The law is the law. The fact that it is not commonly known, and indeed not commonly known by many police, the very people who are supposed to uphold it, does not matter because the law is the law. You might not like the argument, but your Chief Minister is saying, "I knew what was supposed to happen with scratchies, and everybody else did". That is not true.

The Chief Minister mentioned earlier in regard to a similar matter that if people did not complain about the problem it was not really relevant. It is like saying to someone who has committed a crime that they did not commit the crime; but, later on, if caught, saying that they committed a crime in the past. It is a similar thing. It is a fair analogy.

Mr Lamont: What?

MR STEVENSON: I will explain it to you separately later, David. Come and see me.

Amendment agreed to.

Bill as a whole, as amended, agreed to.

Bill, as amended, agreed to.

16 June 1994

PUBLIC SECTOR MANAGEMENT BILL 1994

[COGNATE REPORT AND BILL:

ESTABLISHMENT OF AN A.C.T. PUBLIC SERVICE -
SELECT COMMITTEE - REPORT
PUBLIC SECTOR MANAGEMENT (CONSEQUENTIAL AND TRANSITIONAL
PROVISIONS) BILL 1994]

Debate resumed from 14 June, on motion by Ms Follett:

That this Bill be agreed to in principle.

MADAM SPEAKER: I remind members that we have previously resolved to debate this order of the day concurrently with the Public Sector Management (Consequential and Transitional Provisions) Bill 1994 and the report of the Select Committee on the Establishment of an ACT Public Service. In debating order of the day No. 6 members may also address their remarks to order of the day No. 7 and Assembly business order of the day No. 12.

MRS GRASSBY (9.07): Madam Speaker, the Select Committee on the Establishment of an ACT Public Service has produced a report that attempts to dilute the very effect of the Bill that is vital to providing a fair and equitable public service in the ACT. The Public Sector Management Bill establishes a framework to promote the effective and efficient management of the public sector by recognising the advantages of a single service. This framework necessitates the inclusion of ACTEW, the Legal Aid Commission and the DPP within the Bill in order for the Assembly to expect a Minister of the Government to be responsible for the management and functioning of these authorities. Each of these agencies is a separate statutory entity and, as such, cannot be above the law or the expectation of the public about minimum standards of performance and accountability. These agencies, Madam Speaker, are responsible for the use of public resources. They employ public employees. There are certain responsibilities which must be accepted.

ACTEW and the Legal Aid Commission, as autonomous instrumentalities, will in fact have a further degree of independence. They will be provided with most commissioner powers in relation to employment in their organisations. In addition, the Bill does not permit the Government or commissioner to interfere in the performance of their statutory duties. It seems clear, Madam Speaker, that the Bill promotes accountability with the changes that it involves.

The single service is the most important contribution that the Bill will make to the efficiency of the ACT public sector. The Bill replaces the disparate mess of rules and regulations that have appeared since the ACT was created with a legislative framework that gives the benefits of commonality. The economies of scale are obvious. The current system, with its myriad of contradictions, is confusing. The Bill removes this confusion by eliminating the "tons of paper" currently referred to in personnel management with a single, much shorter and comprehensive set of subordinate rules.

Existing legislation is streamlined by consolidating a range of existing provisions such as the Teaching Service Act and the Maternity Leave (Commonwealth Employees) Act in one place. This will save time and effort and will also enable the public sector to provide better career paths and specialisation for small expert groups. Madam Speaker, the Bill can be easily updated and, more importantly, will be accessible to employees, providing flexibility while avoiding the worst features of bureaucracy, such as unresponsiveness and rigidity. The Assembly must today consider whether it is prepared to take an innovative approach to the management of the public sector or whether it will complacently disregard the changes that will finally allow the ACT to be fully self-determining.

MRS CARNELL (Leader of the Opposition) (9.11): Madam Speaker, the Government has really blown a unique opportunity to put a brand new public service in place. It had the opportunity to learn from the mistakes of the past, look carefully at what others were doing and create for the ACT the best possible system. In fact, that was something that the Chief Minister said on many occasions. It was the Government's opportunity to show real vision and leadership. Instead, it served up something that was a huge disappointment to just about everybody. I applauded the Chief Minister when she said in December 1992:

... we should take as long as needed to develop an excellent framework within which to manage an excellent service ... and when the job is done I want to be able to say that we have the best system of public sector management in Australia.

I think that Mr Moore should listen to this quote. Ms Follett did not say that this new ACT public service would be just a mirror of the present situation. She said:

... we should take as long as needed to develop an excellent framework within which to manage an excellent service ...

Unfortunately, she failed abysmally. Mr Moore, in his comments the other day, indicated, "We will just do it now and then we will fix it later". The fact is that Ms Follett thinks we have already fixed it. When she said that she would take as long as needed, we took her at her word, because she certainly took an enormous amount of time. The original target date was 1 July 1993. We all know what happened to that one. Then the new public service legislation was going to be passed in the Assembly before February 1994. Unfortunately, broken deadline was followed by broken deadline.

Now that this Bill is on the table it can only be described as a great disappointment. There is no way that the Chief Minister can say about this Bill that we have the best system of public sector management in Australia. In fact, this Bill goes close to being the worst. Other public sectors around the world are developing structures which put into effect the lessons of leadership, productivity and customer focus that have been learnt in the 1980s - one of the few good things that I think we learnt in the 1980s.

The Commonwealth Government has begun the task of drafting a new Public Service Act to create a management structure for the late 1990s and beyond. It is a matter of grave concern for the future of the ACT that this Bill seems to have been drafted in ignorance of the pace and direction of changes in the culture and structure of organisations over

16 June 1994

the past decade. If the Chief Minister believes in her words that we should take as long as is needed to develop an excellent framework, then that is exactly what she should do. She should take this Bill away and get it right. In fact, the Commonwealth are saying that with their new Bill they are looking at a very short Bill - one without all the bits and pieces that this Bill has in it, one that will allow their managers to manage. The Chief Minister's Government may not be around next February to live with the consequences of the mess she has made with this Bill, but Canberra cannot afford to see this opportunity for reform squandered.

Mr Moore said that we should let this Bill go through the Assembly and then, as I said before, move to reform the public service. This might be all right if Ms Follett had not put into place a substantially changed structure for the public service, if all she had done was simply change the letterhead and said, "Okay, we will just get the service in place and then get on with a new and wonderful structure". I think it is important to read a quote from a ministerial statement by the Chief Minister on 11 May 1993. She said:

... the Bill we will bring forward will be a management Bill as well as an employment Bill. By this I mean that the Bill will not be confined to employment of public servants. It will also deal with broader management issues, such as the review of organisations to increase efficiency and effectiveness.

That is not exactly a Bill that just changes the letterhead. The fact is that Ms Follett believes that she has already done the reform that Mr Moore suggests that we should do after the Bill is passed. As we move towards greater financial autonomy in the ACT, funds are getting scarcer while demands for public services are increasing. That is not news to anyone. Hence there is no option but to increase the productivity of the ACT public service - something the Chief Minister said that she was going to achieve with this Bill.

The more productive the public service, the lighter the financial burden without any deterioration of the quality of service. I am sure that the Chief Minister agrees. That is why improving the efficiency of the ACT public service should be a top priority of the Government, and the PSM Bill should reflect this priority. Unfortunately, it does not. The Bill should be all about fostering a culture of service, innovation and excellence. It certainly does not do that. The focus should be on objectives and performance in achieving those objectives, not on processes and procedures.

To show that this Government has learnt nothing from the lessons of reform of other public services, the aim of the Bill seems to be to entrench and centralise conditions and working arrangements of public servants and to guarantee a legislated dominant role for union representatives. It is concerned with inputs, processes and the interests of the providers of the service, without any seeming interest in the outcomes. Indeed, the bulk of the material from clauses 55 to 231, with only a very few exceptions, covers an immense range of terms, conditions and procedures which do not need to be in legislation at all. Instead, they should be determined after negotiation with staff by each agency - the same view that the Commonwealth is taking.

I support very strongly the Government setting out a clear philosophy and direction for the public service. I also support the Government setting basic conditions covering the principles of public administration, management, conditions of service - such as annual leave, health and safety requirements and so on - and, of course, the obligations of employees, clauses 6, 7, 8 and 9. However, within that framework other rights and obligations and the means of dispute resolution should be inherent in the ethos of an organisation and covered by workplace agreements. They certainly should not be in this Bill. They are matters for which management should be responsible in the normal course of building a sound, constructive and committed relationship with the agency team. Obviously, the employees of agencies would have input into all matters concerning their working environments and conditions. That is just good management.

Each agency must have the capacity to exercise judgment in how the resources of the agencies are deployed to meet performance objectives and at the same time create a fair and harmonious work environment, without having to be enmeshed in bureaucratic procedures required by this Bill. Managers must be given the responsibility and flexibility to meet the changing demands of services and to make decisions necessary to meet the financial and productivity requirements of both government and the community that they serve.

What the Government fails to understand is that the tried and trusted and proven principle of management is that the primary unit of administration and accountability is the agency. Any person who has any experience in managing an organisation, whether it be public or private, knows that for a fact. Indeed, a salient lesson which I hope the Government has learnt from the VITAB debacle is that it tried to move the responsibility for ACTTAB away from the organisation itself. That is the problem of this Labor Government. They want to have control of everything or, alternatively, think that they can have control over everything. Look at the result. If ACTTAB had been genuinely autonomous, there would have been no doubt about who was responsible. But this Government brought ACTTAB under the control of the Minister, so we all know where the buck stopped.

If the Government knew the first thing about the principles of management, it would understand that the agency is the point of administration, performance and accountability. The failure to act on this principle is a really fundamental flaw in this Bill. The Bill does not decentralise authority. In fact, Mr Moore said on a number of occasions that he did not like the fact that this Bill centralised everything. This Bill goes totally the wrong way. It centralises control in top bureaucracy and in the Chief Minister herself. For example, appointments and promotions are centralised and therefore open to political direction and patronage. Under clauses 27 and 28 the Chief Minister can create or abolish chief executive positions and can appoint chief executives. Subclause 28(3) even allows the Chief Minister expressly to ignore clause 65, which requires appointments to be made on merit with no unlawful discrimination and without patronage or favouritism; that is, the Chief Minister can lawfully appoint a chief executive without merit and under patronage and favouritism. I wonder whether that is what she really intends. Is this her

16 June 1994

way of substantially politicising the public service? The theme of the Bill is that the public service serves the Government and its political needs rather than the public; hence the name "Government Service", when it should, in both name and function, be "Public Service". The client of the public sector is not the Cabinet or the Government but the public which uses and pays for the services. That is why a new culture is required - one that puts people first.

Another example of the attempt of the Government to control everything, centralise power and create the potential to use that power for political purposes is the provision at subclause 20(2), which says that the commissioner can overrule or undermine the authority of a chief executive. On this issue the Director of Public Prosecutions pointed out:

Since the Commissioner is amenable to political direction it follows that the scope for political interference in the prosecution of individual cases has been enshrined.

That is a quote from a letter of 18 May 1994. He is naturally concerned that the power of the commissioner under the Bill could be used to thwart prosecutions of corrupt public officials, for party political reasons. Certainly on this side of the house we share that concern. To allay this justifiable concern, the Bill should make clear the independence of all agencies and should be explicit that the agencies, not the Government, are the employers. That is, the agencies themselves must be able to employ; employment must not be centralised. Conditions of employment can be preserved by requiring adherence to the standards I referred to earlier and, if considered appropriate, incorporating them in the relevant Acts of each agency.

ACTEW's situation goes to the heart of what is wrong with the PSM Bill. One of its major unions - the Association of Professional Engineers, Scientists and Managers - has told the Government that its operating environment is becoming a lot more competitive and that it can deliver best practice results only when it is free from the shackles, controls and bureaucracy which invariably accompany a core public service. The union says that any suboptimal outcomes, such as lower dividends to the ACT Government, must cost ACT ratepayers and ACT businesses more in taxes and charges and must lower the level of service provided. That seems fairly logical. It goes on to say that, while other States and the Commonwealth are increasing the autonomy of their GBEs, the Public Service Management Bill will decrease the autonomy of the ACT GBEs. For ACTEW to remain competitive and provide both job security and advancement, the Engineers, Scientists and Managers Association, along with other unions, want it to be autonomous. They see ACTEW's independence from the PSM Bill as enhancing their job prospects.

On the question of industrial relations, it is interesting to note that the association says:

It is possible to have excellent or miserable industrial relations under all possible structures and autonomy levels. Therefore IR should play no part in determining a GBE's optimum structure and autonomy. Rather, GBE management must be held accountable for both poor IR and IR excellence.

The overriding point is that individual agencies need flexibility to manage according to their skills, judgment and assessment of client demand in providing services in the most efficient way. In the case of ACTEW, ACTTAB and other business enterprises, the focus must be on commercial performance and responsibility, not regulations and bureaucratic processes. It is in this respect that the PSM Bill is entirely inappropriate. (*Extension of time granted*) ACTEW needs a high degree of autonomy to provide services efficiently at all times as demanded by customers, to attract staff and other resources from other electricity authorities and to market its expertise competitively. That seems all very solid. The same freedom should be available to other agencies that might choose to use it. That is, they should have the capacity to be free of the PSM Bill. Agencies which are expected to be competitive simply cannot afford to forgo productivity in order to meet bureaucratic and political demands.

What may work for a core department is entirely inappropriate for agencies whose role is to serve the public. Hence the centralised control over agencies which the Government is proposing in this Bill is counterproductive and ultimately destructive for the public enterprises which are forced to abide by its restrictive industrial relations codes. It is also interesting to note that the unions themselves do not want it. Instead of being driven by the dictates of a central regime, each government agency or department should have the autonomy to negotiate its own workplace or enterprise agreements with its employees to encourage flexibility, innovation and a culture for serving the public and its clients in the most effective way possible, with rewards related as far as possible to outcomes.

Just to remove any doubts over how far the Government is out of touch on which way the world is going, it should be noted that none other than the Trades and Labour Council says that the CEO of ACTEW should have vested employment powers through the ACTEW Act. That was said in a letter to the Chief Minister on 5 November 1993. That is a direct contradiction of what the Government wants in its PSM (Consequential and Transitional Provisions) Bill, which says in Part 34 of Schedule 1 that nothing in section 6 "shall be read as conferring on the Authority a power to enter into a contract of employment".

The Government is clearly wrong on this. Sooner or later reality will dawn. The Chief Minister should not deliver on her timing. She should not deliver on 1 July, because she has not delivered on the substance of the Bill. In addition to the many serious flaws in the Bill - and I think the 109-plus amendments that we currently have show just how many flaws there are - the Chief Minister has not been able to deliver on her promise to public servants that there would be full mobility between the ACT and Commonwealth services. We have been able, at least partially, to save her bacon on this one. I was interested to hear Mr Lamont's comments on this the other day when he suggested that we on this side of the house did not know what we were talking about. I would like to quote again from Ms Follett's ministerial statement. She said:

... we will propose that the present ways that staff can move between the two services should, at the very least, be maintained.

16 June 1994

The fact is that she failed, because all of the present ways that mobility between the two services can be achieved simply have not been delivered. She reneged on this promise, but fortunately we have been able to persuade the Federal coalition to move in the Senate to give former Commonwealth employees now working for the ACT a breathing space of two years in which they can apply to transfer back to the APS under section 50 provisions. This will be in addition to mobility on the basis of merit and will ensure that Commonwealth employees working in the ACT public service will have the same degree of mobility, over the next two years at least, as they do now. The Chief Minister could not deliver on this important promise.

Madam Speaker, unfortunately the Bill is a failure. What the Government should do is go and get the basics right. It needs to establish principles upon which to build a new public service, one that is a good public service to work in for those who are part of it but also one that Canberra can be proud of.

MS SZUTY (9.32): Madam Speaker, I have already spoken extensively about the report of the Select Committee on the Establishment of an ACT Public Service, but I would like to make a few brief comments in the light of what other speakers in this debate have said. Mr Kaine, in his remarks, expressed the view that widespread dissatisfaction about the Bill was being expressed by the Government's own employees. He actually read out a fairly substantial list of those government employees who are currently unhappy - the Public Sector Union, members of the ACT Government Service and the Commonwealth Public Service, APESMA - - -

Mr Kaine: The professional officers.

MS SZUTY: They are the ones, Mr Kaine. They are unhappy; the management of ACTEW are unhappy; the Director of Public Prosecutions people are unhappy; and the Legal Aid Commission people are unhappy. That is a quite lengthy list of people who are currently unhappy with the provisions of the Public Sector Management Bill as they stand. Mr Kaine also commented that it had been the Chief Minister's view that the Public Sector Management Bill was in fact immutable. This effectively contrasts with the number of Government amendments which have been proposed by the Chief Minister and which this Assembly is yet to address. Mr Kaine also made the very important point that a separate ACT public service is a very important and significant step for the ACT to be taking and is certainly a matter that we as an Assembly should get right.

Mr De Domenico, in his remarks, said that there were a number of issues that the Government and the Select Committee on the Establishment of an ACT Public Service had not had time to consider. I well recall the chairman of the select committee, Mr Kaine, saying that, due to the very short timeframe within which the committee needed to report to the Assembly, only the major issues pertaining to the Bill could be addressed and that it simply was not possible to address the Bill clause by clause.

Mr Moore, in his remarks, made two important points. He said that there were two primary issues in relation to the Public Sector Management Bill that he wanted to keep uppermost in his mind. The first of those was the issue of the transfer of Commonwealth public servants to the ACT. The second was the broader issue of public sector reform.

Mr Moore expressed a view that we should deal with the issue of the transfer first and then with the issue of public sector reform by way of the Assembly committee which was established by the Assembly this morning.

Mr Lamont: The standing committee.

MS SZUTY: Yes, the Standing Committee on the Public Sector, which was established by the Assembly this morning. Indeed, that committee will have nine months or so to consider the broader issues of public sector reform. Mr Moore also remarked that the select committee's report was lacking in detail. I mentioned earlier that Mr Kaine believed that the primary reason for that was that the committee just simply did not have the time to consider the Bill on a clause by clause basis. Mr Moore also made some fairly helpful suggestions about a possible inquiry into public sector reform. That is an issue that the Standing Committee on the Public Sector may like to take a keen interest in.

Mr Lamont, in his remarks, talked about the meeting between APESMA and Government representatives to address some of APESMA's concerns. I am not sure of the current status of negotiations; but, if agreement is being reached on outstanding issues, then I think that is a good thing and it is good news for the ACT. Perhaps the Public Sector Management Bill has now undergone a transition from an immutable document to a working document. That is a quite important step for this Assembly to have achieved.

Mrs Grassby, in her remarks, talked about the importance of the Public Sector Management Bill being a simple and streamlined piece of legislation consolidated in one place. That is a view that has been widely supported by members of this Assembly.

Mrs Carnell covered many issues in her remarks, saying that the Bill covers terms, conditions and procedures rather than outcomes. I agree that it does; but I am pleased to see the principles of the public service that the Government has outlined in the Bill, from memory, in clauses 6, 7 and 8. Mrs Carnell also talked about the term "ACT Government Service" being used as opposed to "ACT Public Service". I too have some concern about the language that the Public Sector Management Bill has used.

I would like to return briefly to the fundamental issues around the content of the Bill which are in dispute. The Legal Aid Commission, I understand, are not happy with the Public Sector Management Bill provisions as they currently stand, and neither is the Director of Public Prosecutions; but ACTEW might be making some progress towards being satisfied with them, perhaps with some amendments being proposed by the Government. I am also conscious of recommendation 5 of the committee's report, which I supported. I remind members of what recommendation 5 says:

The Committee recommends that, until the matters dealt with at recommendations 2, 3 and 4 are adequately addressed -

those recommendations address the provisions in the Public Sector Management Bill for the Legal Aid Commission, the Director of Public Prosecutions and ACTEW -

16 June 1994

the passage of the Public Sector Management Bill and the Public Sector Management (Consequential and Transitional Provisions) Bill be deferred (but not beyond the 1994 Spring Sittings of the Legislative Assembly).

I, of course, have some sympathy with that view and support that view. However, I believe that we are making some progress in addressing the needs of those employees who are still unhappy with the provisions of the Bill. I understand the Government's need to meet the expected timetable of 1 July 1994. However, I believe that we need to balance the need to introduce the separate ACT Government Service as soon as possible with the need for us to take as much time as we need to consider the issues in the Bill fairly carefully.

We also need to take into account what is happening in the Federal Parliament. Several members of this Assembly have addressed those matters previously. We also need to be conscious of the Industrial Relations Commission timetable and of various negotiations which are continuing at present. I understand that representatives of the Trades and Labour Council had a meeting today with the Federal Minister responsible for public service matters, Gary Johns. I have not heard the outcome of that particular meeting, but I would be pleased to hear its outcome.

I am also aware of the possibility of an arbitration hearing taking place on Monday, 20 June - just next week - and the possibility of three further days being set aside for arbitration in early July. I am also aware that there are expectations that the Senate will have addressed the legislation by 30 June. We are working towards, I hope, a satisfactory completion of the Public Sector Management Bill which will satisfy the requirements of all members of this Assembly. I am pleased that later today we will be scheduling another sitting of this Assembly for Wednesday of next week. I certainly hope that we will have all final amendments that members want to propose to the Bill by the close of business tomorrow so that we can think about them over the weekend. I am pleased that we are due to have a round table discussion on the issues on Monday. I hope that that will go some way towards resolving the concerns that we have about the Bill and enable us to complete our deliberations on Wednesday of next week. I certainly believe that that is possible.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (9.41): Madam Speaker, I seek leave to speak again on this matter.

Leave granted.

MR LAMONT: Madam Speaker, I rise to address a number of points, particularly those in the presentation of Mrs Carnell. To me, it is obvious that Mrs Carnell has failed to understand the basis upon which there is opposition from the PSU to the transfer to a separate ACT public service. She has failed to understand also where the difficulties with that lie, so I will take some time in order to enlighten her.

Mr Kaine: You have 15 minutes.

MR LAMONT: That will be long enough, Mr Kaine, even for Mrs Carnell. I appreciate, Mr Kaine, that you understand the issues that I am about to address. It is just unfortunate that, even with your powers of persuasion, you have been unable to edify Mrs Carnell. As I said the last time that she spoke on this matter, I still think that she thinks that a section 50 transfer is some sort of monetary transaction between the Liberals' 250 fundraising club and the parliamentary party. She said, "We have acted to ensure that we get a continuation of section 50 mobility right".

That is not what the PSU are seeking. I thought that even Mrs Carnell would have understood that. They are seeking an absolute, unfettered right to return, within a specified period provided for under Part IV of the Public Service Act, to their home department, their home base. That is not a section 50 transfer; that is just putting up their hand and saying, "Tomorrow I am back with the Department of Finance" or "I am back with the Public Service Commission" or "I am back with my previous home base". That is not a section 50 transfer. Section 50, the provision that she is talking about and that the Public Sector Union originally raised, enables a department - which may not be the home department; which invariably is not - to transfer an officer to it at the same level. Section 50 is the technical procedure which allows that to occur where the receiving department agrees to it. That is not what is being sought by the PSU. Mrs Carnell fails to understand that issue.

Mrs Carnell went on at some length about enterprise bargaining and claimed that we were missing opportunities. Mrs Carnell, it has been this Labor Government that in fact has delivered substantial industrial reform through the structures put in place by a Federal Labor government. We understand the type of industrial reform that she wishes to introduce when we look at her one-page budget strategy that she delivered today, in which she talks about wiping \$27m, or 1,000 jobs, from ACTION's bottom line. That is the sort of industrial reform and industrial bargaining process that she wishes to enter into. That most certainly is not what the unions want. In fact, they are asking for a continuation of the process. APESMA and the ETU - the unions in ACTEW - want a local bargaining arrangement to continue. We are happy for that to happen. In the discussions that we have had with APESMA I believe that we have reached substantial agreement to satisfy their requirements in relation to the transfer to a new service. It will not require substantial, if any, change to the Bill that is currently before us to accommodate their concerns. The proposition that Mrs Carnell raised was based on her interpretation of their words, and again she was wrong. That is not unusual.

Mrs Carnell made the criticism that we have put forward 109 amendments. Yes, we have. It is only appropriate that we do so, because it is part of the consultation process on this Bill. The Bill originally drafted was put out for consultation not only with the Opposition, the Independents and Mr Stevenson but also with the trade unions, and we have taken into account what they said. We have also taken into account the desires and aspirations of a whole range of agencies and corporate entities that exist within the ACT Government Service, as we should, and they form part of these amendments. I fail to see how it can be a criticism of the Government that we have actually taken into account the views of those people who have raised concerns with us. It is an appropriate way for the Government to act. I presume that what Mrs Carnell would say - heaven help us if she

16 June 1994

ever got to the treasury benches - is, "Here is the Bill. Go to buggery". That seems to be her attitude. If she is not prepared to accept that there is a process which says that you go through this consultation period, she is in effect saying, "Here is your Bill. Go to buggery". Trying to studiously ignore these comments is just not good enough. I think it is pretty typical of the way that Mrs Carnell sees public administration. She does not see it.

Ms Szuty, I believe that we have substantially answered and addressed the questions and concerns of APESMA in relation to how they see the new system working. In their submission to the committee ACTEW said that they are substantially happy with the way in which this new process will work. They have some concerns about their continuation as a commercial entity. This Government wishes to see them continue as a commercial entity, and we wish to see them succeed. That is a position that we have put time and time again in this Assembly. I believe that the substantial issues that were put in the ACTEW submission to the inquiry have also been addressed.

Let us have a look at what remains. There is the Legal Aid Commission. How many people are there in the Legal Aid Commission? Let us say that, at the best count, there are 70. How many are there in the DPP's office - 30, 35, 40? How many does that leave us, in reality? About 80 employees out of a total of 22,000 may be disgruntled, may have a cause for concern. If that is the case, then it may be appropriate for the matter to be dealt with in the ways which have been suggested by some members.

One thing for sure is that this Government has a duty to protect the interests of its employees. The conditions which they currently enjoy they should enjoy on day one. Not only have we delivered on that in this Bill; we have gone one step further. This is something that Mrs Carnell does not understand. This is something that the one-page logic of the Leader of the Opposition cannot come to grips with. We have provided 14,000 employees with an opportunity that currently does not exist. As a responsible employer, we are attempting to treat all of our employees the same - a noble cause. When I last spoke on this matter, I pointed out the absolute mayhem that had been caused in the Northern Territory because of the stratified employment arrangements that were put in place when they achieved self-government in the 1970s. Again, that is something that Mrs Carnell fails to understand. With her view of the world that is predicated on one-page logic, I can understand why she fails to understand it.

Madam Speaker, what we have here is a government that embarked upon a process over 18 months ago, that has gone through a negotiating exercise throughout the ensuing period and that has set a legitimate goal of 1 July on advice from the Commonwealth Government that that is the day of separation preferred by them. I believe that we can now achieve that goal. Because of the goodwill that has been engendered by this Government amongst the great majority of its employees, I believe that that is an attainable goal. It will mean that this Assembly will need to sit one extra day to consider the detail stage of the Bill, but that does not reflect on the genuine intentions and desires of the majority of our employees to have this matter settled. I think there is a legitimate desire on the part of the majority of the employees of the administration to have this matter finalised and to have the new service come into effect on the proposed day one.

I see Mr Stevenson sitting over there waving his hand up and down as if to say, "I am not quite sure of that". Mr Stevenson, it is interesting to note the effect of the current bans. The current bans have been put in place by the PSU - and only the PSU - arising out of a meeting which was held outside this chamber at 3 o'clock on Tuesday afternoon. The 50 people from the PSU who attended that meeting in the foyer of the Assembly decided to put some bans on. They have bans on revenue collection. They have bans in some of the parking areas where they have members. They have some bans in one or two ministerial liaison areas or response areas, but that is okay. All that really means is that responses to Mr Cornwell's 27,000 questions on notice will be somewhat delayed. Maybe at some stage I will have to use that as the reason why I have not been able to respond within 30 days, but I will certainly attempt to not let that affect the responses to Mr Cornwell's questions.

What in fact is the effect of this? I suggest to you that a great deal of the reason for the PSU's consternation about this change is not necessarily a legitimate desire to see tier 1 and tier 2 provisions apply under Part IV of the Act. There may be other reasons. I am not going to speculate here tonight about what they may be. That is up to the PSU to address internally. I put it to you quite succinctly that, if there were within the ranks of the clerical and administrative structure in the ACT substantial consternation about the progress to a separate service on 1 July, there would be massive disruption to the ACT Government. That simply is not the case because quite simply - -

Mrs Carnell: Have they not decided not to send out rates notices?

MR LAMONT: Mrs Carnell, I am glad to see that you have now decided to wake up and pay attention. I understand that your attention span is very short, but if you listen to me and to Mr Kaine we might be able to get through to you on this one.

Mr Humphries: Oh, dear!

MR LAMONT: It needs to be said because I am sick and tired of the one-page logic, the one-page mentality. Mrs Carnell cannot get beyond that; 360 little squiggles on a piece of paper is about the end of it. Mrs Carnell, there is still some irritation, but I emphasise again that it is not with us. The concerns that employees have are with the Commonwealth. We have said that we agree with what the PSU, the other unions and the Trades and Labour Council are trying to achieve in mobility rights. We are prepared to confer a right which currently does not exist, and we gained the agreement of the Commonwealth for that to occur. We, the Government, the employer, got the Federal Government to agree to extend that mobility right on merit for 14,000 of our employees who currently do not enjoy it. That is something of which we should be rightfully proud and something for which the unions have already acknowledged their gratitude.

We have said that we are in a position to proceed to a new service on 1 July. We are prepared to proceed to a separate service through the process outlined by Ms Szuty - that is, by returning here next Wednesday. On Monday there will be a discussion about where the amendments fit into the scheme of things and how we should proceed on Wednesday when we come back for a formal sitting of this Assembly.

16 June 1994

I understand that the only course left to you is to become spoilers. You missed your opportunity on the budget. You have responded with one-page logic. You are now trying to create an issue and drag this matter out. It is not good enough for you to adopt that attitude if you want to be a responsible opposition. You should be run out of town for that sort of logic. That is, in fact, what you deserve. I am very pleased that Mr Moore will support the Bill, and I am confident that Ms Szuty, when she has been able to look at all of the amendments, and Mr Stevenson will also support the finalisation of this matter when it is next before the Assembly.

MR HUMPHRIES (9.56): Madam Speaker, if Mr Lamont really thinks that the only people who oppose this Bill are those who have only one-page logic, as he puts it, to put up against it, then he seriously underestimates the widespread concerns that have been expressed by all sorts of people about this Bill. In fact, I cannot recall any piece of legislation which has been so widely condemned by the very constituencies it is meant to assist. We have had talk about the commemorative balloons, the pens and the mugs to mark the creation of a separate ACT public service. I suppose that those things are meant to convey some sense of pride and achievement in having a separate ACT public service. Where is the sense of pride, the sense of occasion? Is this move welcomed by the people it is meant to affect? This Bill rivals the Electoral Bill as a major, keynote piece of government legislation, as a centrepiece of the Government's program, with a long lead time. It has arrived on the scene to almost universal dismay.

With those problems, the Government, rather than saying, "Yes, let us work through it, discuss it and talk about it", is rushing headlong towards some artificially imposed deadline which it feels has to be met come what may. The reason has not been explained, but it must be met come what may. It leaves a great many people severely dissatisfied with the process and, most particularly, with the outcome. I do not know of any community sector which has actually welcomed this legislation. The question we have to ask ourselves in the midst of this fairly widespread anger about the way in which the Bill has proceeded and about the disappointments and the broken promises that have accompanied this legislation is: Is this legislation going to be a springboard for providing excellence in our public service? Are we going to create the best public service in Australia? Why should we not create the best public service in Australia? We have a discrete community with long historical experience of public service management. We have the most up-to-date legislative opportunity, in the sense that we have all the other legislation to look at. Why could we not create the best possible legislation for the best possible public service? Are we going to do that with this legislation? I do not think we are. I do not think anybody else thinks we are, except for those people across the way, who insist that this has to go ahead right now and that we have to race into this. "It is better to have the thing in place than to have it done properly" seems to me to be the argument. Any measure which throws the unions and the Liberals into the same corner must be pretty bad. It must be pretty bad, to generate that kind of bedfellowship.

The discussion of the areas where exemptions or opting out from the inclusive nature of this legislation might apply illustrates very well the problem which we face in this legislation. It has been argued, for example, that ACTEW should be excluded from the scope of the Bill. It is a service provider; it is a government business enterprise. It has a different structure and role to those of other government organs. Fair enough.

The Director of Public Prosecutions and the Legal Aid Office have argued similarly that they need to operate outside this framework, in a different environment; that they need to operate within the legal mores. They are serving not so much Government objectives as those of the clients in their particular groups. That is why they need to have that kind of basis of operation. Fair enough again. Some exemptions have already been provided for in the legislation itself - the Fire Brigade, for example.

When you look at all those things, though, Madam Speaker, the question springs to mind: What characteristics of the ACT public service which is being created with this legislation are so invidious that they need to be escaped from? What is it that people are trying to get away from? The answer, it seems to me, is the heavy hand of centralism and proceduralism, the central imposition of restrictions, rules, procedures and chains of command that are designed primarily to cover the backsides of the people who are involved and responsible for those chains of commands, rather than a flexible response to the changing needs of the client base which this whole public service is meant to respond to. There is pitifully little mention in this legislation - or in this debate, for that matter - of the clients, the people of the ACT whom this public service is meant to serve.

I am appalled by the extent to which this whole document, this whole framework, is inward looking. It is all about the Government, not about the service part of the whole exercise. Nothing so dominates one's impression of this Bill as the impression that it is all about meeting the needs not of clients but of the service itself. Are all the provisions outlined in this legislation, for example, really necessary to achieve that responsive attitude towards the client base? So onerous is it in that respect that various segments of the public service seem to want to get out of it rather than get under it for protection or for some other benefit.

Mr Moore places great store in the importance of getting a separate public service ahead of necessarily getting all the structures right to begin with. That is an argument which, on the face of it, seems to have some acceptability. He wants to get the thing, and then work out the details afterwards. But, if we look at that argument a bit more closely, we see that there are some serious problems. Surely the primary goal must be to maintain a service of excellence, whether it is to be officially separate from, or attached to, the Commonwealth Public Service. Surely the issue is not where it actually falls or where it is located but what it does and how it is structured. Surely that is the essential and important question. Unfortunately, Mr Moore's approach forces us to choose between those two things - having a separate public service and having a very good framework for that public service. I do not think that by passing the legislation at this stage we are actually going to achieve a service of excellence. There are so many problems, as exhibited by the many submissions made to the committee that Mr Kaine chaired, that we really have to ask ourselves whether we have achieved what we have set out to achieve.

The other problem which Mr Moore's approach fails to acknowledge is that the Government itself does not want to change this Bill, notwithstanding the 109 amendments which are before the house and the possibility of more next week. Mr Moore hopes to fix up these problems with the structures later on, but I think it is fair to say that the Government will not be necessarily cooperating very much in that process. It is happy with what it has at the moment, apparently, with a few little odds and ends to be sorted out. Basically, it is happy; so what does he expect to achieve by putting this off to

16 June 1994

another day? The result will be that the structure the Government wants will be put in place, the Government's process of cooperating with further changes will be minimal and we will see that the onus of engineering these improvements, which the committee acknowledged will be fairly radical changes, will shift from the Government, which wants to get the thing in place, to the committee which has been reconstituted by the motion today.

The onus will shift back to that body. That body obviously will have many fewer resources than the Government does to achieve this task, and it will also have a much more limited timeframe. The pressure on its members to propose changes and to put them before the Assembly in time for it to pass them by the end of the year is going to be intense. I do not think it is going to be possible to achieve that. The effect of this decision to support the Government's position, with respect, Mr Moore, will be to require the issues to go back onto the backburner. That will be a great pity, given the opportunity we had to create a service of excellence.

I read with interest recommendation 5 of the committee. I read particularly the conclusions which led the committee to make that recommendation. I want to quote some of them briefly. I think they summarise very well the problems that are outstanding at this point. I quote from page 16 of the committee's report:

While some of the technical issues raised with the Committee may be resolved by negotiation ... other issues of contention will not be resolved as easily.

The attention that the Committee can give to these issues has, however, been severely limited by the intention of the Government to bring on debate about the Bills only seven weeks after being introduced into the Assembly.

The major concerns over fundamental aspects of the legislation expressed by the DPP, the Legal Aid Commission, APESMA and the Leader of the Opposition question the very structure of the model ... and need to be addressed by the Government before the legislation is implemented.

... ..

Taken collectively, the concerns expressed to the Committee by all witnesses would suggest that the imposition of the Public Sector Management Bills in their present form with a centralised control structure would be ill advised.

I think those concerns are legitimate. I note that Mr Berry, in a one-page dissenting report, says - - -

Mr De Domenico: How many pages?

MR HUMPHRIES: One page. What was that we heard about one-page logic before? Here is some one-page logic, a very bland statement:

... I have not seen any argument that would cause me to agree to delay this bill ...

I think a better way of putting it would have been, "I have seen lots of arguments, but I have not recognised any of them". There were, apparently, plenty before this committee. They came from all the people you would expect to have some knowledge of the matter. But that was not enough for Mr Berry, whose logic in these matters has always been very simple: "What the party does must be right. Right or wrong, let us go ahead if that is what we have to do. If that is what the mates say, we will go ahead and do it".

Madam Speaker, there are many pieces of this jigsaw which do not at this stage fit in. What will be the role of Federal legislation in making this happen? We do not know at this stage. How will the Public Interest Disclosure Bill, which is before the Assembly and which the committee has recommended be the basis for whistleblower protection in this framework, be set up? How will it integrate with the Bill? We cannot answer that question comprehensibly while the final Bill has not been resolved. What will ACTEW's role be in this structure? What will the DPP's role be in this structure? What will the Legal Aid Commission's role be in this structure? How will the Statutory Appointments Bill affect appointments of people who are agency heads under this structure? What will the Industrial Relations Commission's role be in deciding the final outcome of this structure? What will the scope for such things as enterprise agreements be within this structure? Why are none of the major client groups, the unions and others involved in this structure happy with this outcome?

Madam Speaker, Mr Moore said this morning in the course of the debate on the disallowance motion - if I am summarising correctly - that, if the whole process has been a mistake or a stuff-up, then it is best to chuck the whole thing out. I think he agrees - - -

Mr Moore: And you would not do it.

MR HUMPHRIES: No. We did not agree about whether it was a mistake or not, but you agree that there are big problems with this Bill. You have said it on the record. You should take your own advice and chuck out this piece of legislation.

MS FOLLETT (Chief Minister and Treasurer) (10.09), in reply: Madam Speaker, before I close the debate on the in-principle stage of the Public Sector Management Bill, I would like to address some of the points that have been made by other speakers in this debate. I would also like to make some general comments about the legislation itself. I have heard from a number of Liberal members their views of what this Bill ought to have encompassed. As far as I am concerned, what they appear to want is the complete opposite of what I believe represents the best possible outcome for the ACT public service. I have also had a look at the Liberals' submission to the ACT Legislative Assembly Select Committee on the Establishment of an ACT Public Service, so my comments are informed also by that.

16 June 1994

There is no doubt in my mind that what the Liberals really want is to break the ACT service into a number of small fiefdoms and to put all of the employees of those fiefdoms on contracts of some kind. The effect of this would be that equity and job security for 23,000 workers would simply go out the window. Madam Speaker, we have seen a similar situation to the one described by the Liberals in New Zealand. Quite clearly, the Liberals are attracted by that corporate model of public sector activity. I am not. The Liberals have also said that what I have put forward is a centralised model. That is simply not the case. What I have put forward is a model that promotes uniform standards across the whole of the service and enables all workers across the service to enjoy equity and to enjoy certainty in their rights and conditions. That is a long way from being a centralised model. Under the model that I have put forward, each chief executive will actually be responsible for almost all individual staffing decisions. I think that is the correct balance between having a centralised process, which we do not have, and what the Liberals want, which is individual fiefdoms.

Madam Speaker, the Liberals have also made much of the Chief Minister's power under this Bill to appoint chief executives. The Bill, as I have put it forward, does no more than continue what is the existing situation with the Commonwealth. I believe that this is a situation that has worked pretty well. The Liberals made much of the fact that on occasions merit may not be the overriding principle. In relation to that very small number of chief executive officers, there are other considerations besides merit, and this has long been recognised. Ministers must work very closely with their CEOs. There have to be considerations of how well those people will work together or how well a chief executive officer may be able, say, to lead and inspire a certain organisation; so there are other considerations besides merit in that very tiny number of positions - a handful of them, seven or eight only.

Madam Speaker, we have heard a lot about ACTEW and the commercial role of ACTEW. In my view, that is just a lot of rhetoric. ACTEW is, in fact, a monopoly, and it is a public sector monopoly. They operate on public service-type conditions. They compete with nobody. At the moment they do not produce anything either; they merely on-sell. So I consider it well and truly appropriate that they remain in the public service as a whole.

Madam Speaker, Mr Moore made some good remarks. I agree with his comments on the distinction between establishing an employment framework, which is what the Bill does, and the ongoing task of public sector reform. Those issues have been confused by others. It is heartening to see that Mr Moore understands the distinction. I support Mr Moore and others in the establishment of a committee of this Assembly to continue the task of looking at public sector reform. That committee has been created, and I believe that it is appropriate that we utilise the Assembly in that way.

Madam Speaker, I know that many members have addressed what they believe is the need to keep the legal aid and DPP organisations outside the public service framework. I simply do not agree with that proposition. I believe that the Bill already satisfies the need for both organisations to be independent and to be seen to be independent.

Employing their staff under a public service Act, and particularly with the protection that we have included, does not prejudice the independence of those bodies. That is demonstrated by the fact that already several legal aid commissions around Australia and all the DPPs employ their staff as part of the public service. I do not see why we need to be any different.

Madam Speaker, I would like to make some general comments about the Bill and, given the importance of the legislation, I think it is worth while spending a little bit of time drawing together the threads on the separate service as I have proposed it. The Assembly has before it an opportunity to establish an ACT Government Service to serve the people of this Territory. By establishing our own public service under our own legislation, we will be completing that final step in self-government for the ACT. The road to that self-government has been difficult, and the establishment of our own separate service has been no less difficult. If it had been easier, it would have been done earlier. I think that is pretty clear. But the Territory has now been self-governing for over five years, and it is time that we took this last step. We have a public service which has done a terrific job, I believe, in serving this community and certainly in serving the Government. As a government we recognise the contribution of our public servants, and we certainly do not want to diminish their morale or diminish their commitment. For our 23,000 public servants, the establishment of the separate service could well be the single most important event in their careers, and its importance for the Territory cannot be underestimated. That is why the Government has presented a Bill which offers a "no change" model for the individual terms and conditions of our employees while at the same time improving the equity, the accountability and the structural arrangements which will benefit the community.

Madam Speaker, establishing a separate public service is a great challenge for our public servants. As Mr Lamont said, the majority of them have met that challenge with cooperation and with support in the move to the separate service. They have served the Government and the community, as always, with loyalty and with dedication. One reason for that is that this legislation poses no threats to their security, to their terms and conditions and to their capacity to deliver services to clients - unlike what the Liberals want. In fact, the Bill is an improvement in terms of establishing a single service and providing mobility across the ACT service and into the Australian Public Service for many staff who do not currently have that capacity - some 14,000 of them. The options that were presented by Mrs Carnell for contract employment, privatisation and contracting out of services only serve to make public servants nervous and suspicious, and I would not be surprised if those kinds of proposals had a very poor effect on the morale of the service.

The Public Sector Management Bill, Madam Speaker, is not just a Bill developed by public servants for public servants. The Government set the agenda on this from the outset. When I first announced to this Assembly on 17 December 1992 that a new service would be established, I said that we would have a public service whose prime characteristics were a career service with entry and advancement on merit. I said that the legislation should set out the values and principles we expect our public servants to apply in the discharge of their duties and that the public service needed to be accountable to the Government. I said that public sector management needed to be proactive, responsible

16 June 1994

and responsive and that staff should be well trained. I said that the structures and procedures of our public service should allow it to operate efficiently and effectively. I said that there would be full reciprocal mobility with the Australian Public Service. In the Public Sector Management Bills that are before the Assembly the Government has delivered on each and every one of our commitments for the new ACT service.

Contrary to Mrs Carnell's vision for the ACT public service - more of a nightmare than a vision, in my opinion - which if taken to its conclusion is tantamount to no public service at all, the Government has a positive and long-term vision. We have never wavered from our commitment. The type of public service that we want is one which is excellent in the advice and the service that it provides to our community and to the Government.

In June 1993 Mr De Domenico moved in this Assembly to establish the Select Committee on the Establishment of an ACT Public Service. The Government made substantial submissions to that committee. I appeared before the committee myself, as did senior officers of my portfolio. I have to admit, Madam Speaker, to being disappointed at the product of that committee's work. Considering that the committee has had since last August to consider the Government's major submission on the separate service, I believe that they left their run very late indeed, especially as we have kept the committee informed on the Bill's development. We provided the chair with a copy early this year. The committee has had the final Bill for two months. Mr Kaine, in fact, is on the public record as praising the public servants who had developed it. Of course, as we see from the committee's report, the committee now wants more time.

The fact of the matter, Madam Speaker, is that establishing a separate service is hard. It requires a fundamental understanding of what is a proper relationship between politicians and public servants in a parliamentary democracy. You really need to understand how a public service, in all of its complexity, actually works. You need to understand why public servants work for the ACT rather than for the Commonwealth and, most importantly, you need a positive and long-term vision. In my view, Mr Kaine, Mrs Carnell and Mr De Domenico have not shown that they have the understanding or the vision that is required for that task.

Madam Speaker, the ACT Public Sector Management Bill is a sound piece of legislation. It is very similar to, but not entirely the same as, the Commonwealth Public Service Act. For that reason, of course, it is bound to attract criticism. The Commonwealth Public Service Act, however, Madam Speaker, has provided the framework for a quality Australian Public Service which has been capable of responding to the tremendous changes in Australian society since it came into effect in 1922. In fact, the Commonwealth has always been the leader in public administration in Australia. Why would we not want to follow in their footsteps, Madam Speaker?

If the Assembly, in the event, should decide to amend the Bill to remove agencies such as the DPP, then I would make it very clear to the Assembly that I would not regard a Minister of this Government as being accountable to the Assembly for that body - and we have had this discussion before. Madam Speaker, if the Assembly expects a body to be independent and not subject to ministerial direction, then I do not see that the Minister should be held responsible when the operations of that body fail to hold up to scrutiny.

As members know, I intend to move a number of amendments during the detail stage of the debate. They will be moved so that certain reciprocal mobility provisions actually mirror the Commonwealth's provisions, which were changed at a late date. We need also to move amendments to clarify arrangements for the Clerk of the Assembly, to provide for an independent member of the Executive Staffing Committee and to remove the veto of members of the committee. (*Extension of time granted*) I thank members, and I will be brief.

Madam Speaker, the Government has responded to issues raised by the DPP, and I will be proposing an amendment to confer chief executive powers on the DPP by legislation; but we do not believe that it is necessary to depart from the model that is on the table to preserve the independence of the DPP. We will do the same for the Auditor-General and the same for the Clerk of the Assembly. Other amendments of a technical nature are proposed to address the advice of the Scrutiny of Bills Committee, or they follow consultation with unions and with the Commonwealth, as Mr Lamont said.

This is a very important opportunity, Madam Speaker. I undertook to have this separate ACT service by 1 July. As the Government, we have delivered on our part of this exercise. It is now up to the Assembly to grasp the nettle and pass this Bill. If there is further delay, then the opportunity to establish our own public service may be lost for quite some time. I commend the Bill to the Assembly. Madam Speaker, I commend to members also the proposal to sit for an additional day next week in order to consider the detail stage of the Bill. Finally, I thank all members for their contribution to the debate on the Bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Clause 1

Debate (on motion by Mr Berry) adjourned.

POSTPONEMENT OF ORDER OF THE DAY

Motion (by Mr Berry) agreed to:

That order of the day No. 7, executive business, relating to the Public Sector Management (Consequential and Transitional Provisions) Bill 1994, be postponed until the next day of sitting.

16 June 1994

DAY OF NEXT MEETING

Motion (by Mr Lamont) agreed to:

That:

- (1) the next meeting of the Assembly be fixed for Wednesday, 22 June 1994, at 10.30 a.m.;
and
- (2) notwithstanding anything contained in the standing orders, the orders of the day, executive business, relating to the public sector legislation be given precedence over all other business at 10.30 a.m. and that, at the conclusion of consideration of order of the day No. 2, executive business, the question "That the Assembly do now adjourn" shall be put.

ESTABLISHMENT OF AN A.C.T. PUBLIC SERVICE - SELECT COMMITTEE Report

Debate resumed from 14 June 1994, on motion by Mr Kaine:

That the recommendations be adopted.

Question put:

That the motion (Mr Kaine's) be agreed to.

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 Stevenson Mr Lamont
Ms Szuty Ms McRae
Mr Westende Mr Moore
 Mr Wood

Question so resolved in the negative.

ADJOURNMENT

Motion (by Mr Berry) agreed to:

That the Assembly do now adjourn.

Assembly adjourned at 10.30 pm until Wednesday, 22 June 1994, at 10.30 am

16 June 1994

This page intentionally left blank.

ANSWERS TO QUESTIONS

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1279

Canberra Theatre Centre - Hire Arrangements

Mr Cornwell - asked the Minister for the Arts - In relation to the hiring, in part or in its entirety, of the Canberra Theatre complex by an organisation or company

1. Do they pay an amount for rent.
2. Do they also pay a percentage of takings in addition to rent.
3. Do they have to pay an extra fee in order to set up sales points for their own wares (eg programs, T shirts etc.).
4. Do they pay a percentage of sales (eg programs, T shirts etc.) to the Theatre Trust.
5. Are they obliged to use the Trust's caterers.
6. Are they obliged to leave a block of seats for the use of the Trust at every performance or every opening night or otherwise.
7. If the answer to (6) is affirmative, (a) how many seats are set aside for the Trust's use; (b) who are they for and (c) why does the Trust expect individual organisations or companies to provide these for use at the Trust's discretion.

Mr Wood - the answer to the Member's question is as follows:

1. Yes - two rates, commercial or non-profit distributing. Non-profit distributing rates apply to ACT based nonprofit organisations; and commercial rates apply to all other hirers.
- 2.. Hirers of the Canberra Theatre do not pay a percentage of takings in addition to rent. Hirers of the Playhouse pay a minimum fixed rent against which 10-W of gross box office takings is applied.
3. If they are selling merchandise themselves on Canberra Theatre Centre premises, the presenter pays a site fee. If Canberra Theatre Trust are selling on the

2175

16 June 1994

presenter's behalf no site fee is payable. Instead, the presenter pays to the Trust a sales commission together with Theatre staff costs.

4. As indicated above, if presenters are not paying a site fee for merchandising because the Trust is doing it on their behalf, they pay a percentage of sales income plus associated theatre staff costs.

5. Yes

6. Yes

7. (a)	Theatre 1st Performance-	20
	Subsequent Performance	14
	Playhouse 1st Performance	6
	Subsequent Performance	4

NB those not required are returned for sale by the presenter

(b) Trust members, sponsors, staff, and VIP guests of the Trust. These seats are also used to handle emergency situations, eg to accommodate people who have accidentally come on the wrong night, particularly when they have travelled a considerable distance, and to accommodate last minute bookings from presenters and visiting dignitaries.

(c) The reservation of seats for theatre management usage at all performances is standard practice throughout Australia and internationally. Details of seats that are held as house seats are clearly identified in the hiring agreement standard condition of hire. As indicated above these seats are allocated to the Trust members, sponsors, staff, VIP guests of the Trust and for emergency situations.

2176

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1283

Fairbairn Park - New Track

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

- (1) Has construction of the new track at the Fairbairn Park site been approved.
- (2) If not, what action do you propose to take for the unapproved construction.
- (3) If so, (a) who approved it; (b) was an environmental impact assessment done and (c) why were the nearby residents not consulted in the course of the assessment.
- (4) How does the construction of this new track reconcile with your undertaking to close down the Fairbairn site by early 1995.
- (5) Is the Minister's Department aware that this new track is approximately 100 metres closer to the nearby houses than the old one.
- (6) How is the construction of a new track for use by cross country bikes easily accessible from a public road, to be reconciled with the Government's repeated undertakings to control the times and conditions of use of all tracks on the site.
- (7) What action does the Minister propose to take as a result of Environmental Protection Section's measurement showing that noise from racing on this track on 17 April generated noise in excess of the exemption granted.

Mr Wood - the answer to the Member's question is as follows:

- (1) Under the lease, approval is not required for works of this nature. There is however a requirement for design and siting approval and the need under the Land (Planning and Environment) Act 1991 for a preliminary assessment.
- (2) I have directed officers in my Department to contact the Council and advise them of the requirements for approval that the works entail.

2177

16 June 1994

(3)(a) not relevant.

(b) A preliminary assessment is required and the Council will be advised of this.

(c) As the works require a preliminary assessment and are a controlled activity for design and siting approval they are publicly notifiable and nearby residents will be afforded the opportunity to comment at that time.

(4) I have made no firm commitment to close down the Fairbairn site by early 1995. The Government is in the process of identifying possible sites for relocation of motorsport facilities, which requires extensive investigation of a range of issues and public consultation through an environmental impact assessment.

(5) The track is not considered new. The noise attenuation mounds proposed will reach a height of five metres above ground level and are intended to minimise the noise impacts on residents.

(6) I am advised that the track is to be used by road bikes not cross country bikes. The club using the site regards any illegal users as trespassers, and is responsible for taking action accordingly. I understand members of the Fairbairn Park Control Council and the ACT Motorsport Council are cooperating in the control and usage of all tracks in relation to reducing the impact of any noise from the site.

(7) I am advised that the Pollution Control Authority inspector on duty spoke to the operators of the track and brought to their attention the noise level emitted. In this instance the exceedance was marginal and the operators complied with the inspector's directive. In these circumstances the Pollution Control Authority has advised me that it has decided not to take further action on this incident.

0

2178

**CHIEF MINISTER OF THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION
Question No. 1285**

ACTTAB-VITAB Ltd Contract - Inquiry Expenses

MRS CARNELL - Asked the Chief Minister upon notice on 17 May 1994:

In relation to legal representation at the VITAB Inquiry:

(1) Does the Government provide or fund any legal representation for (a) Ministers or staff members of the Executive; (b) Members or their Staff; and (c) Government agencies?

(2) If any representation is provided under (1), who represents whom?

(3) Is the Government or any of its agencies paying for any of these representatives. If so, (a) why; (b) what indemnity has been given in respect of each and under whose authority has it been given; (c) what limits have been imposed on legal and other expenses in respect of any individual and/or agency; (d) what is the estimated cost of legal and other expenses in respect of each individual or agency represented and for which the Government or agencies are responsible?

(4) What fee or other expenses are being paid to Professor Pearce to conduct the inquiry and what is the expected cost?

(5) What administrative or other support is being provided by the Government or its agencies in support of the inquiry and what is the estimated cost?

MS FOLLETT - The answer to the Member's question is as follows:

(1) (a) No.

(b) Yes. Independent legal advice, funded by the Territory, has been made available to Mr Berry, the former Minister for Sport on issues relating to the Inquiry. This was initially arranged through the Government Solicitor, but in view of the need for the Government Solicitor to give advice to the Department of the Environment, Land and Planning on matters involved in the Inquiry and on issues related to it, arrangements were made for an independent solicitor to take over responsibility for briefing counsel.

(c) Yes. Legal advice to the Department of the Environment, Land and Planning and the Chief Ministers Department has been provided by the Government Solicitor in accordance with ordinary arrangements. ACTTAB arranged its own private legal advice.

(2) Mr Berry's legal advice has been provided by Mr G James QC instructed by Mr W Redpath of Messrs Garry Robb and Associates.

ACTTAB's legal advice has been provided by Mr Russell Miller of Sly and Weigall and by Mr Ron Williams QC.

16 June 1994

(3) Yes.

(a) There have been many precedents for Government providing legal assistance to Ministers and to public servants who are required to defend their official actions against legal claims or to appear at inquiries in relation to their conduct in their official capacity. Such assistance has been provided regardless of whether the person concerned has ceased to hold the office in question.

As a separate statutory authority, ACTTAB is empowered to arrange its own legal representation without reference to the Government.

(b) None.

(c) The Territory has agreed to meet the reasonable costs of providing legal advice to Mr Berry in connection with the Inquiry to enable him to present his position. There have been no limits placed on the cost of legal representation provided to ACTTAB.

(d) A fee of \$375.00 per hour to a maximum daily fee of \$3000.000 per day plus any expenses calculated in accordance with Judges' travelling allowances has been agreed to be paid to Mr James QC. The Government Solicitor has advised that he would regard \$175.000 per hour as a reasonable fee for solicitor's costs. The Government Solicitor has, to date, arranged for the payment of \$10,461.00 to Mr James in connection with his attendance in Canberra on 15 April 1994 to confer with Mr Berry and for approximately 2 1/2 days preparation and reading of relevant materials. Further requests for payment have since been received and are presently being assessed by the Government Solicitor. Details of any payment can be provided to the Assembly.

The costs of legal services provided to ACTTAB by Sly and Weigall is \$12,789, and by Ron Williams QC is \$8,800.

The advice to government departments provided by the Government Solicitor's Office did not involve additional cost to the Territory.

(4) Professor Pearce is being paid at a rate of \$300.00 per hour in his capacity as the Board of the Inquiry into the ACTTAB/VITAB Agreement. The total amount to be paid to Professor Pearce is \$51,300.

(5) Secretariat support has been provided to Professor Pearce in the form of an officer at the Senior Officer Grade B level from within the ACT Government Service. The approximate cost of this service over the one month it has been provided is \$2,500.00 In addition, the services of a Personal Assistant to Professor Pearce have also been provided by the Territory for a period of just over three weeks. The cost of this service is approximately \$1,760.00.

The cost of printing the Report is expected to be of the order of \$1,300.

2180

ADDITIONAL EXPENSES ASSOCIATED WITH THE

VITAB INQUIRY

(As at 21 June 1994)

Scribe Costs \$ 4644.50
Templine Engagement Fee \$ 300.00
Advertisement/Media Monitors \$ 1232.52
Travel Costs for witnesses
to Attend Inquiry \$ 1782.20
Car Hire \$ 316.00
Hire of Room \$ 750.00
General Office Costs \$ 447.70
Additional Legal Fees
(Mr James QC) \$24,477.00

TOTAL \$33,949.92

2181

16 June 1994

**MINISTER FOR EDUCATION AND-TRAINING
LEGISLATIVE ASSEMBLY QUESTION
Question No 1289**

Secondary Colleges - Course Frameworks

MR CORNWELL - asked .the Minister for Education and Training on notice on 18 May 1994:

In relation to new common guidelines for years 11 and 12 student -assessments being introduced into ACT colleges:

(1Y Does. this major change indicate that the existing system of assessment is inadequate, and if not, why the change.

` (2) Why is this change being introduced over 3 years and can you

"- assure the community that students will not be disadvantaged in 'their assessments during this long transition period. '

MR WOOD - the answer to Mr Cornwell's question is:

- (1) The development of ACT Year 11 and 12. Course Frameworks is timely.. It reflects and complements national curriculum initiatives over the last-few years. It evidences the ACT's responsiveness to ensuring educational opportunities for the full range of student interests and needs.. The frameworks provide the basis for both a broad general education and vocational courses. .The frameworks address requests from various tertiary, further education and employer-groups for articulation about what students can actually do, and how well
. they can do it.

The Course Frameworks reflect a system move to-criterion based .assessment and reporting that has featured in a number of

.subjects and colleges since 1986. The changes to be implemented over the next 3 years are consistent with the ongoing nature of educational evaluation and the readiness of the ACT to continue toreflect upon and improve educational practice. The ACT can

. be justly proud of its record in preparing students for future study and the workplace. Our students have been very successful both in the ACT and interstate, even in the most highly competitive courses. The changes indicate our preparedness to continue to strive to provide the best educational outcomes for . our students. . .

. 2182

(2) A feature of ACT education in Years 11 and 12 is that students are encouraged to take responsibility for, and to fully understand, all aspects of their education. Curriculum development and assessment have been school based since 1976. The ACT course frameworks developed in 1993-94 are an important educational initiative in which many teachers have played a major role. - It is a complex initiative. The three year time frame recognises the complexity of this change which impacts on curriculum development, teaching and learning, assessment and reporting, computer hardware and software at system and college levels. To inform fully all interested groups - teachers, students, parents, and the many groups that are the audience for Year 12 certificates - a decision to have this lead in time is a very responsible and carefully considered one.

ACT certificates for Year 12 students will reflect assessment and reporting changes in 1997. College reports will reflect the criterion based nature of assessment and reporting under ACT Year 11 and 12 course frameworks from 1996. The first course developed under ACT Year 11 and 12 course frameworks will be submitted for accreditation in the middle of 1994. These courses will be implemented for Year 11 students- in 1995.

Teachers will receive appropriate inservice to implement the change and, Year 11 and 12 students will be fully informed about how they will be assessed and how their achievements will be reported.

2183

16 June 1994

**MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 1290**

North Watson Development Area

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

What are the names of any leaseholders in the North Watson development area who have applied for a change of lease purpose to residential, and on what dates did they apply.

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

No applications for lease variations from North Watson leaseholders have been submitted to the Department of the Environment, Land and Planning to date.

2184

**MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 1291**

Medium Density Leases

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

- (1) How many medium-density sites in 1993-94 to date have had the permitted density increased following the granting of a lease under the Land (Planning and Environment) Act 1991.
- (2) What was the numerical increase in units in each case.
- (3) What was the increase in betterment in each case.

Mr Wood - the answer to the Member's question is as follows:

- (1) No medium density leases granted under the Land (Planning and Environment) Act 1991 have had the permitted density increased in 1993-94 to date.
- (2) Not applicable.
- (3) Not applicable

a

2185

16 June 1994

**MINISTER FOR EDUCATION AND TRAINING
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO 1295**

Preschools - Enrolment Statistics

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

In relation to preschools in the ACT what is the 1994 enrolment for each preschool and is it a free standing unit or is it attached to another educational facility.

MR WOOD - the answer to -Mr Cornwell's question is attached.
2186

16 June 1994

Electronic copy of this page is not available but it is included in the printed Hansard.

16 June 1994

Electronic copy of this page is not available but it is included in the printed Hansard.

Appendix 1: Electronic copy of this page is not available but it is included in the printed Hansard.

16 June 1994

.BACKGROUND.. ...

-The Australian Capital Territory Gaming and Liquor Authority was abolished by the Alliance Government on 31 December 1990 when it repealed the Gaming and Liquor Act. All TAB functions were transferred to a newly created Territory-Owned Corporation, (70C), ACTTAB Limited. The Company was incorporated in the Australian Capital Territory under the Commonwealth Companies Act 1981 on 13 December 1990. The ACTTAB LIMITED -was listed as a Territory-Owned Corporation in the Schedule 1 to the Territory-Owned Corporation Act (1990) and it is subject to that Act and the Betting (Totalisator Administration Act) 1964.

2 The principle objects of ACTTAB Limited are to provide totalisator betting facilities in the ACT, to conduct lotteries and pool betting schemes and to provide administrative services of other companies and bodies providing gaming and betting services.

3. ACTTAB Limited issued capital consists of two voting shares and three non-voting shares. Only a Minister may hold a voting share. The current voting shareholders are the Treasurer, GIs Rosemary Follett and the relevant portfolio Minister, Mr Wayne Berry as Minister for Sport.

4. Under the Articles and Memorandum of Association (attachment A) appointments to the Board of Directors* are made by the voting shareholders and the Board appoints the Chief Executive Officer and elects the Board's Chairperson. The composition of the Board is a minimum of three members for a quorum and a maximum of five members in total.

5. The ACTTAB is a major ACT enterprise with a total turnover of \$85.8 million in 1991/1992 of which \$5.1 million was paid as turnover tax to the ACT Government. Disbursements of \$3 million were also made from the turnover to prescribed race clubs. The Racecourse Development Fund received \$0.6 million and income tax equivalent payment of \$0.064 million was made to the ACT Governments. Disbursements to prescribed race clubs were comprised of \$2.3 million to the gallops, \$0.46 million to the greyhounds and \$0.30 million to harness racing.

6. ACTTAB's dividend in 1991/1992 was \$0.165 million. Its proposed dividend for 1992/1993 is \$0.300 million.

7. Cabinet agreed in the Budget Cabinet that the operations of the ACTTAB be reviewed (Decision No. 3170).

e
2190

ISSUES

8. I am concerned that the present legislative framework prevents the Government from effectively and efficiently: exercising a more positive role in the operations of the ACTTAB. '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 TAB can act independently of its

9. The ACT is the only State/Territory TAB which has its totalisator betting services provided by a company. In the States these services are provided through some form of Statutory body. ACTTAB currently provides these services for the Northern Territory on a contract basis.

10: For the Government to have more direct responsibility for the ACTTAB's operations, the most appropriate structure is for the TAB to be converted to a Statutory Authority. The ACTTAB would become a body corporate with 'members of the Board appointed by the Minister: The ACTTAB would be more directly subject to the directions of the Government.

11. The proposed arrangement would be a change of degree in Government responsibility for the TAB's operation while still ensuring that it remains at arms-length from the Minister responsible for its operations.

12. In order to allow the TAB to operate as a Statutory Authority, it will be necessary to provide for the winding up of the ACTTAB as a TOC, provide for the transfer of assets and the establishment of the ACTTAB as a Statutory Authority. This can be achieved by amending Schedule 1 to the TOC Act, making such consequential amendment to legislation as necessary and enacting new legislation to establish the ACTTAB as an Authority. The Office of Sport and Recreation and the Government Solicitor's Office should have carriage for the winding up of the ACTTAB as a TOC and establishing the Statutory Authority.

13. Two members of the Board, including the Chairperson, will finish their current term of appointment in December 1992. Expressions of interest are being sought for these vacancies. The future operation of the ACTTAB should be resolved before these appointments take place.

14. Legislation put in place to establish the TAB as a Statutory Authority would need to retain existing conditions of employment including superannuation entitlements, for ACTTAB employees.

2191

16 June 1994

15. It is proposed that to re-establish the TAB as a Statutory Authority would:

increase the level of Government Government oversight of the TAB operations;

not affect employment conditions of current ACTTAB employees; not affect existing contracts, rights, assets and liabilities which would be transferred on the same

basis as existing agreements; . . . not affect the level of Government revenue from.

. ACTTAB operations although there may have to be some adjustment. An the type of payment to Government the net effect will be the same: and

. not affect the level of distribution to the racing industry.

FINANCIAL CONSIDERATIONS - .

1-6. The net effect on income and expenditure for the TAB would be unchanged. Although there may be some readjustments in terms of statutory outlays to the government the net effect would be the same.

INTERGOVERNMENTAL RELATIONS

17. There would be no effect on other governments or the South-East Region. State TABs all operate as government Statutory bodies not as companies..

CONSULTATION

18. ACT Treasury, Chief Minister's Department, the Government Solicitor's Office.

19. There has been no consultation with the racing industry including the ACTTAB. While there may be initial concern expressed by the industry, these concerns can be allayed by assurances that there will be, no major change: to the day-to-day operations of the TAB. and no effect on the racing industry in relation to distributions. The employees of the TAB may be concerned over employment conditions- These fears can be allayed if new, employment arrangements are similar to existing arrangements. The Board will have concerns over possible impact the change may have on their operations which are on a commercial basis. These concerns can be addressed in discussions with the Board

2192

5

RECOMMENDATIONS

20. It is recommended that Cabinet agree to the preparation of legislation to:

(a) amend the Territory Owned Corporation Act 1990 to delete from Schedule 1 of that Act the reference to ACTTAB Limited;

(b) create the ACTTAB as a statutory authority;

(c) specify that the ACTTAB shall have as its objects:

(i) to provide in accordance with

the law of the Australian Capital Territory, totalisator betting facilities in respect of races or events held within or outside the Australian Capital Territory by operating its own totalisator or by means of agreement entered into with bodies conducting totalisator operations outside the Australian Capital Territory.

(ii) to conduct lotteries

(iii) to act as an agent of a person conducting a lottery for the sale of tickets, in that lottery.

(iv) to conduct as a promoter of an approved pool betting scheme, a pool betting competition under that scheme...

(v) to act as an agent of a promoter of an approved pool betting scheme in the conduct by the promoter of a pool betting competition under that scheme.

(vi) to provide administrative services (including computing services) to other companies and bodies providing gaming and betting services or to the Australian Capital Territory Government or Australian Capital Territory owned bodies.

(d) provide that the ACTTAB shall be controlled by a board of a minimum of 3 and a maximum of 5 members who shall be appointed by the Minister and have the expertise or skills necessary to assist the Authority achieve its principal objectives;

(e) provide that the Minister may issue directions to the Board in relation to the operations of

= 2193

16 June 1994

. -6

the ACTTAB and table any Ministerial directions in the Assembly;

(f) specify that* the-day-to-day operations of the . ACTTAB will be exercised: by a chief-executive officer who will be appointed by. the Minister- .

,_ .. on such basis-and conditions of employment. that. may be specified by-the-Minister;--.

. (g). specify that. the. restructured ACTTAB. will- . retain the same rights, obligations liabilities and assets; :.

(h) provide -for necessary. consequential amendments to existing legislation;'

21..It is recommended 'that Cabinet agree to the ACT ..'.
Office of Sport and Recreation-in: association with
Government. Solicitor's Office -taking responsibility for
winding up the operations of the ACTTAB as a TOC and its
establishment as a. Statutory Authority..

22.It is recommended that Cabinet note that: .

(a) staff of the restructured ACTTAB will'-retain the same superannuation and other conditions of employment; and . .

(b) discussions will beheld with relevant unions

2194

16 June 1994

Electronic copy of this page is not available but it is included in the printed Hansard.

16 June 1994

Electronic copy of this page is not available but it is included in the printed Hansard.

16 June 1994

Electronic copy of this page is not available but it is included in the printed Hansard.

16 June 1994

Cabinet-fn-Confidence

ATTORNEY GENERAL'S DEPARTMENT _ 15 JUN 84

Subject: CO-ORDINATION COMMENT- LEGISLATION TO
C

STATUS OF THE ACTTAB LIMITED

Cabinet Liaison Officer

DELI'

CC. Secretary

Director, Cabinet Office

Whilst this Department has no major problems with altering the current ACTTAB arrangements such a change in direction needs to be supported by publicly defensible policy considerations. - To this end the submission should be strengthened.

Government accountability or control is no doubt one such consideration although the existence of section 17 of the Territory Owned Corporations Act 1990 does go some way to addressing these concerns.

As discussed with Ms Pinkus references in paragraphs 12 and 21 to the Government Solicitor's Office should read "in conjunction with the Government Solicitor's Office" and references to establishing the Statutory Authority should be removed from the relevant sentences in each of those paragraphs.

The reference to the Government Solicitor's Office in paragraph 18 should be replaced with the Attorney-General's Department.

The recommendations are currently in very precise terms with no flexibility for dealing with unforeseen issues that may arise during preparation of the Bill, particularly the objects clause. Consideration should be given as to whether this is appropriate. .

Paragraph 20 should be amended to include arrangements for staffing and financial considerations. Remuneration for members should also be included.

Cabinet-in-Confidence

2198

16 June 1994

Cabinet-fn-Confidence

Paragraph 20(h) should also refer to transitional arrangements. -

I am happy to clear any alternative wording that is developed.

Kare Gosh v

Director

Parliamentary & Constitutional

Ph: 2070548

19 November 1992

Cabinet-In-Con

2199

ence

16 June 1994

APPENDIX 2:
(Incorporated in Hansard on 15 June 1994 at page 2019)
t

4
MINISTERIAL STATEMENT

LABOUR MINISTERS' COUNCIL

SYDNEY

20 MAY 1994
Circulated by authority of
David Lamont MLA
Minister for Industrial Relations
June 1594

2200

MADAM SPEAKER

I SHOULD LIKE TO REPORT TO THE ASSEMBLY
ON THE LABOUR
MINISTERS' COUNCIL MEETING IN
SYDNEY ON 20 MAY WHICH I ATTENDED FOR THE A.C.T.
GOVERNMENT.

THE MOST CONTENTIOUS ITEM WHICH WAS
DISCUSSED WAS THE LEGISLATIVE FRAMEWORKS
ESTABLISHED BY THE COMMONWEALTH AND BY THE
STATES TO PROMOTE DECENTRALISATION OF WAGE
BARGAINING PROCESSES.

ASSEMBLY MEMBERS PROBABLY SAW THE
MEDIA REPORTS, WHICH PLAYED UP THE DIFFERENCES
BETWEEN MR BRERETON, THE COMMONWEALTH
2201

16 June 1994

MINISTER FOR INDUSTRIAL RELATIONS, AND VARIOUS MINISTERS FROM THE NON-LABOR STATES, ON THIS ISSUE. BY FOCUSING ON THE DIFFERENCES, THE MEDIA MISSED THE REAL STORY, WHICH IS HOW MUCH BIPARTISAN AGREEMENT THERE IS BETWEEN GOVERNMENTS BOTH LABOR AND COALITION, ON THE APPROACH WHICH IS APPROPRIATE IN CURRENT ECONOMIC CIRCUMSTANCES IN AUSTRALIA.

- THERE IS UNANIMITY IN THE LABOUR MINISTERS COUNCIL THAT HIGHLY CENTRALISED WAGE FIXING IS NO LONGER APPROPRIATE AND THAT ENTERPRISE AND WORKPLACE BARGAINING PROMISES TO DELIVER OUTCOMES THAT WILL IMPROVE AUSTRALIA'S COMPETITIVE POSITION AND THE LIVING STANDARDS OF AUSTRALIAN WORKERS BY LINKING

2
2202

WAGE INCREASES TO IMPROVEMENTS IN
PRODUCTIVITY AND EFFICIENCY.

WHILE THERE IS AGREEMENT ABOUT THE
STRATEGY AND THE DESIRED OUTCOMES THERE IS NOT
AGREEMENT ABOUT THE DETAILED PROCESSES. THE
LEGISLATIVE FRAMEWORKS WHICH THE NON LABOR
STATES HAVE PUT IN PLACE ARE AIMED AT REMOVING
FROM WORKERS THEIR AWARD SAFETY NETS AND THE
PROTECTION OF TRADES UNIONS.

THE COMMONWEALTH'S INDUSTRIAL
RELATIONS REFORM ACT (AND THE QUEENSLAND _

LEGISLATION) RECOGNISES THAT IF WORKERS ARE TO
HAVE CONFIDENCE IN ENTERPRISE BARGAINING
PROCESSES THEY NEED THE ASSURANCE THAT THE

16 June 1994

SUPPORT OF MODERN AND RELEVANT AWARD STRUCTURES
WILL CONTINUE.

THE COMMONWEALTH LEGISLATION ALSO PROVIDES
FOR MINIMUM STANDARDS AS REGARDS MINIMUM WAGE LEVELS,
EQUAL PAY, TERMINATION ARRANGEMENTS AND PARENTAL
LEAVE, BASED ON INTERNATIONAL STANDARDS LAID DOWN IN
I.L.O. CONVENTIONS.

AS WELL AS A ROLE FOR TRADES UNIONS AT LEAST TO BE
NOTIFIED OF PROPOSED ENTERPRISE AGREEMENTS, AGREEMENTS
NEED TO MEET THE TEST OF 'NO DISADVANTAGE' IN RELATION TO
AWARD ENTITLEMENTS BEFORE THE INDUSTRIAL RELATIONS
COMMISSION CAN RATIFY THEM.

S
2204

THIS BALANCE BETWEEN ENCOURAGING DECENTRALISED WAGE AND CONDITIONS BARGAINING WHILE ENSURING THE SECURITY AND PROTECTION OF AN AWARD AND REGULATED SAFETY NET AND A ROLE FOR TRADE UNIONS HAS LED TO STEADY AND INCREASING NUMBERS OF SUCCESSFUL ENTERPRISE AGREEMENTS BEING FINALISED AND RATIFIED IN THE FEDERAL JURISDICTION.

IN THE NON LABOR STATES, WHICH HAVE USED THE RHETORIC OF `DEREGULATION OF THE LABOUR MARKET' TO CLOAK AN ATTACK ON THE WAGES AND CONDITIONS OF WORKERS AND ON THE f ROLE OF TRADES UNIONS, THE PERFORMANCE HAS RANGED FROM POOR TO PATHETIC.

2205

16 June 1994

ON THE STATISTICS OFFERED BY THE FEDERAL MINISTER, NEARLY HALF THE WORKERS COVERED BY FEDERAL AWARDS HAVE SUCCESSFULLY COMPLETED ENTERPRISE BARGAINS. IN STARK CONTRAST, THE PROPORTION OF STATE AWARD WORKERS COVERED BY ENTERPRISE AGREEMENTS UNDER STATE LAWS IS MINUSCULE BY COMPARISON.

THE SIMPLE POINT MADE BY MINISTER BRERETON, IN HIS CHARACTERISTICALLY BLUNT WAY, IS THAT THE INDUSTRIAL RELATIONS PROCESSES CAN BE REFORMED, BUT PROPER REGARD NEEDS TO BE PAID TO THE FACT THAT SUCCESSFUL CHANGE REQUIRES A CLIMATE OF SECURITY AND CONFIDENCE. TO CREATE FEAR AND UNCERTAINTY WILL MEAN RESISTANCE AND ANTAGONISM TO ANY MOVE AWAY FROM EXISTING ARRANGEMENTS.

2206

THE OTHER TOPIC WHICH SAW A RANGE OF

VIEWS BETWEEN MINISTER WAS WORKERS

COMPENSATION, IN PARTICULAR THE RECENTLY
RELEASED REPORT OF THE INDUSTRY COMMISSION.
AGAIN, WHILE THERE WAS BROAD CONSENSUS

ABOUT THE DESIRABILITY OF GREATER

STANDARDISATION OF BENEFITS AND COST v
ATTRIBUTION, AND THAT THE EMPHASIS IN ANY

WORKERS' COMPENSATION SCHEME SHOULD BE ON A

SPEEDY RETURN TO WORK, THERE WAS LESS

AGREEMENT ON THE REFORM PROCESS. THE HEADS

OF WORKERS' COMPENSATION AUTHORITIES ARE

CONTINUING TO DEVELOP PROPOSALS FOR GREATER
NATIONAL UNIFORMITY BETWEEN SCHEMES.

d

2207

16 June 1994

A FURTHER MEETING OF LABOUR MINISTERS HAS BEEN PROPOSED FOR SEPTEMBER TO CONSIDER THE MATTER FURTHER IN THE LIGHT OF THE COMMONWEALTH'S CONSIDERED RESPONSE TO THE INDUSTRY COMMISSION REPORT WHICH IS DUE IN AUGUST. OTHER MATTERS DISCUSSED AT THE COUNCIL MEETING INCLUDED:

- THE INTRODUCTION SOON OF A SUPPORTED WAGE

SYSTEM FOR WORKERS WITH DISABILITIES ENTERING

THE OPEN LABOUR MARKET;

- THE INDUSTRIAL RELATIONS IMPLICATIONS PARTICULARLY THE INTRODUCTION OF TRAINING WAGES - OF THE RECENT COMMONWEALTH
Now
GOVERNMENT WHITE PAPER 'WORKING NATION';
2208

THE DEVELOPMENT OF A MODEL AWARD TO COVER WORKERS EMPLOYED IN COMMUNITY BASED ABORIGINAL AND TORRES STRAIT ISLANDER PROJECTS;

FURTHER INITIATIVES TO MOVE TO GREATER UNIFORMITY OF OCCUPATIONAL HEALTH AND SAFETY STANDARDS ESPECIALLY THROUGH THE DEVELOPMENT IF POSSIBLE OF NATIONALLY CONDUCTED ECONOMIC IMPACT STATEMENTS THAT WOULD SATISFY THE REQUIREMENTS OF THOSE STATE JURISDICTIONS WHERE SUCH INSTRUMENTS ARE REQUIRED IN CONJUNCTION WITH REGULATORY AMENDMENTS;

A MODERN AND NATIONALLY CONSISTENT SCHEME OF OCCUPATIONAL LICENSING FOR PLUMBERS AND GAS FITTERS; AND

a

2209

16 June 1994

- PROCESSES AND PRIORITIES FOR THE RATIFICATION OF CONVENTIONS OF THE INTERNATIONAL LABOUR ORGANISATION.

ASSEMBLY MEMBERS WILL GATHER, MADAM SPEAKER,
THAT ACROSS THE POLITICAL SPECTRUM THERE IS GENERAL
ACCEPTANCE ABOUT THE WAY LABOUR RELATIONS IN THIS COUNTRY
NEEDS TO DEVELOP. LABOUR MINISTERS ARE UNDER NO ILLUSIONS
THAT THE CONTRIBUTION OF GOVERNMENTS CAN NEVER BE ANY MORE
THAN TO CREATE
SUPPORTING FRAMEWORKS AND MECHANISMS.

THE ONUS, AS ALWAYS, WILL REST ON THE
INDUSTRIAL PARTIES, A PRODUCTIVE PARTNERSHIP

10

2210

16 June 1994

BETWEEN CAPITAL AND LABOUR, IF REAL AND
SUSTAINABLE PROGRESS IS TO BE MADE.

THE A.C.T. LABOR GOVERNMENT STANDS
READY TO ASSIST LOCAL INDUSTRY AND THE TRADE
UNION MOVEMENT TO ENSURE THAT WE MAXIMISE
EFFICIENCY AND PRODUCTIVITY IN A CLIMATE OF
` INDUSTRIAL HARMONY AND CONSTRUCTIVE LABOUR RELATIONS.

I MOVE THAT THE ASSEMBLY TAKE NOTE OF THIS PAPER.
2211

16 June 1994

APPENDIX 3:

(Incorporated in Hansard on 16 June 1994 at page 2021)
1994

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY
ANNUAL REPORTING (GOVERNMENT AGENCIES) BILL 1994
PRESENTATION SPEECH

Circulated by the Authority of

Rosemary Follett MLA
Chief Minister

2212

ANNUAL REPORTING (GOVERNMENT AGENCIES) BILL 1994

MADAM SPEAKER, BEFORE THE LAST ELECTION, MY GOVERNMENT GAVE AN UNDERTAKING TO LEGISLATE TO PROVIDE A COMPREHENSIVE FRAMEWORK OF ANNUAL REPORTING TO ENHANCE THE ACCOUNTABILITY OF A.C.T. GOVERNMENT AGENCIES TO THE GOVERNMENT, THE LEGISLATIVE ASSEMBLY AND THE COMMUNITY. THIS BILL WILL ENSURE THAT THE MAJOR ASPECTS OF ANNUAL REPORTING, THAT IS, THE REQUIREMENT TO REPORT, THE DATE BY WHICH THE ASSEMBLY SHOULD RECEIVE A REPORT, AND THE FORM AND CONTENT OF REPORTS, WILL ALL BE LEGAL REQUIREMENTS.

I DO NOT NEED TO REMIND MEMBERS THAT BEFORE SELF-GOVERNMENT, THOSE ELEMENTS OF COMMONWEALTH AGENCIES THAT DELIVERED SERVICES TO THE TERRITORY WERE RESPONSIBLE TO THE FEDERAL GOVERNMENT, AND NOT THE PEOPLE OF THE TERRITORY. THE ADVENT OF SELF-GOVERNMENT ENSURED THAT THESE AGENCIES WOULD BE RESPONSIBLE, THROUGH THE EXECUTIVE GOVERNMENT, TO THEIR LARGEST STAKEHOLDERS: THE A.C.T. COMMUNITY.

THIS LEGISLATION IS A FURTHER STEP IN THE DIRECTION OF ENHANCING THE ACCOUNTABILITY OF THE A.C.T. ADMINISTRATION TO THE COMMUNITY AND ITS REPRESENTATIVES.

THE BILL WILL REQUIRE THE TABLING OF INSTRUMENTS TO DETERMINE THE FORM AND CONTENT OF ANNUAL REPORTS. THIS WILL ENSURE THAT ALL TERRITORY PUBLIC BODIES WILL BE REQUIRED TO INCLUDE CERTAIN INFORMATION ON THEIR PERFORMANCE AND OUTCOMES AGAINST

16 June 1994

PERFORMANCE INDICATORS. THIS INSTRUMENT WILL BE BASED ON THE DIRECTIONS I HAVE PREVIOUSLY ISSUED TO AGENCIES WHICH HAVE SEEN A DRAMATIC IMPROVEMENT IN THE QUALITY OF REPORTS BEING SUBMITTED TO THE ASSEMBLY.

THE TIMING OF PRESENTATION OF REPORTS TO THE ASSEMBLY WILL ALSO BE DETERMINED BY INSTRUMENT TO ENSURE THAT REPORTS ARE BOTH TIMELY AND LINKED TO THE BUDGET CYCLE.

THE FINAL MAJOR ELEMENT OF THE BILL IS THE SCHEME OF CONSOLIDATION. THE REPORTS OF MANY PUBLIC BODIES WILL EITHER BE SUBSUMED INTO, OR ANNEXED TO DEPARTMENTAL REPORTS. THIS SHOULD NOT ONLY REDUCE THE COST OF REPORTING, BUT WILL MEAN THAT INFORMATION ON RELATED UNITS CAN BE FOUND IN, OR ATTACHED TO, A SINGLE REPORT. SOME REPORTS, SUCH AS THAT OF THE AUDITOR GENERAL AND THE OMBUDSMAN, WILL REMAIN SEPARATE TO ENSURE THEIR INDEPENDENCE FROM THE EXECUTIVE IS PRESERVED.

MADAM SPEAKER, IN CONCLUSION, THIS ANNUAL REPORTING LEGISLATION IS A CONTINUATION OF THE IMPROVEMENT IN THE ACCOUNTABILITY OF THE A.C.T. PUBLIC SERVICE THAT HAS OCCURRED SINCE THE ADVENT OF SELF-GOVERNMENT.

2214

APPENDIX 4:

(Incorporated in Hansard on 16 June 1994 at page 2021)
1994

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY
ANNUAL REPORTING (GOVERNMENT AGENCIES)
(CONSEQUENTIAL PROVISIONS) BILL 1994
PRESENTATION SPEECH

Circulated by the Authority of

Rosemary Follett MLA
Chief Minister

2215

16 June 1994

THIS BILL, IN CONJUNCTION WITH THE ANNUAL REPORTING (GOVERNMENT REPORTING) BILL 1994, WILL PROVIDE A SINGLE, CONSISTENT REQUIREMENT FOR PUBLIC BODIES TO REPORT BY AMENDING THE PLETHORA OF ANNUAL REPORTING PROVISIONS WHICH CURRENTLY EXIST IN VARIOUS ACTS. THIS WILL ENSURE THAT OTHER LEGISLATION IS CONSISTENT WITH THE ANNUAL REPORTING (GOVERNMENT AGENCIES) BILL 1994 , AND THAT THE CURRENT DIVERSITY OF REPORTING REQUIREMENTS ARE DRAWN INTO A SINGLE ACCOUNTABILITY FRAMEWORK.

2216

APPENDIX 5:
(Incorporated in Hansard on 16 June 1994 at page 2022)

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY
NURSES (AMENDMENT) BILL 1994
PRESENTATION SPEECH
Presented by
Minister for Health
Terry Connolly MLA

2217

MADAM SPEAKER, THE NURSES (AMENDMENT) BILL 1994 IS ANOTHER IN A SERIES OF A.C.T. HEALTH PROFESSIONS REGISTRATION LAWS TO BE AMENDED IN ACCORDANCE WITH THE AUSTRALIAN HEALTH MINISTER'S AGREEMENT TO ADOPT CONSISTENT STANDARDS IN RELATION TO THE REGULATION OF HEALTH OCCUPATIONS.

THE NURSES (AMENDMENT) BILL 1994 PROVIDES FOR NATIONALLY AGREED UNIFORM STANDARDS AND ARRANGEMENTS FOR REGULATING NURSES AND FOR UNIFORM DISCIPLINARY SANCTIONS WHICH CAN BE IMPOSED EITHER SINGULARLY OR IN COMBINATION.

IN PARTICULAR THE BILL RECOGNISES THE ENTITLEMENT OF A PERSON WHO IS REGISTERED OR ENROLLED AS A NURSE IN A STATE OR ANOTHER TERRITORY TO REGISTRATION OR ENROLMENT IN THE A.C.T., AND PROVIDES FOR CONDITIONS WHICH ARE IMPOSED UPON A NURSE'S REGISTRATION OR ENROLMENT IN ANOTHER JURISDICTION AS A RESULT OF DISCIPLINARY ACTION TO BE APPLIED IN RESPECT OF THE PERSON'S REGISTRATION OR ENROLMENT IN THE TERRITORY.

THESE PROVISIONS ARE INTENDED TO BE CONSISTENT WITH THE MUTUAL RECOGNITION PRINCIPLE RELATING TO OCCUPATIONS AS SET OUT IN SECTION 17 OF THE COMMONWEALTH MUTUAL RECOGNITION ACT 1992.

THE APPLICATION OF THAT PRINCIPLE TO THE TERRITORY AND TO OTHER JURISDICTIONS HAS GIVEN RISE TO THE DESIRABILITY OF ADOPTING AGREED MINIMUM REQUIREMENTS FOR REGISTRATION OR ENROLMENT AS A NURSE.

UNLESS ALL JURISDICTIONS WHERE MUTUAL RECOGNITION APPLIES HAVE THE SAME STANDARD FOR REGISTRATION OR ENROLMENT OF A PERSON AS A NURSE, THE JURISDICTION WITH A LOWER STANDARD WILL PROVIDE A MEANS FOR A PERSON WHO SATISFIES THAT STANDARD, BUT NOT THE HIGHER STANDARD REQUIRED BY OTHER JURISDICTIONS, TO GAIN REGISTRATION OR ENROLMENT IN THOSE JURISDICTIONS UNDER THE MUTUAL RECOGNITION PRINCIPLE.

THIS BILL INTRODUCES UNIFORM QUALIFICATIONS FOR REGISTRATION.

TO BE ELIGIBLE FOR UNCONDITIONAL REGISTRATION AS A GENERAL NURSE, APPLICANTS MUST BE GRADUATES OF A COURSE OF STUDY AND TRAINING IN GENERAL NURSING FROM AN AUSTRALIAN INSTITUTION THAT IS ACCREDITED BY THE BOARD OR APPROVED BY A REGISTRATION AUTHORITY OF A STATE OR ANOTHER TERRITORY AND TO HAVE PRACTISED AS A GENERAL NURSE WITHIN THE PERIOD OF 5 YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION.

WHERE THE PERSON HAS GRADUATED FROM SUCH A COURSE OF EDUCATION OR TRAINING MORE THAN 5 YEARS BEFORE THE DATE OF APPLICATION FOR REGISTRATION, OR HAS NOT PRACTISED AS A GENERAL NURSE WITHIN THE PERIOD OF 5 YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION, THE NURSE IS REQUIRED TO UNDERTAKE FURTHER TRAINING OR GAIN EXPERIENCE IN NURSING AND PASS SUCH EXAMINATIONS AS THE BOARD REQUIRES.

UNCONDITIONAL REGISTRATION AS A GENERAL NURSE, MAY BE ALSO GRANTED TO APPLICANTS WHO ARE GRADUATES OF A COURSE OF EDUCATION OR TRAINING IN GENERAL NURSING FROM AN INSTITUTION IN A PLACE OUTSIDE AUSTRALIA WHICH IS SUBSTANTIALLY EQUIVALENT TO AN AUSTRALIAN COURSE AND QUALIFIES THE PERSON TO PRACTISE NURSING IN THAT PLACE, AND WHO HAVE UNDERTAKEN SUCH FURTHER EDUCATION OR TRAINING, GAINED SUCH EXPERIENCE IN THE PRACTISE OF NURSING AND PASSED SUCH EXAMINATIONS AS THE BOARD REQUIRES.

A PERSON IS ENTITLED TO UNCONDITIONAL REGISTRATION AS A MIDWIFE OR MENTAL HEALTH NURSE IF THE PERSON IS REGISTERED OR ENTITLED TO BE REGISTERED AS A GENERAL NURSE UNDER THIS ACT, AND IS A GRADUATE OF A COURSE OF STUDY OR TRAINING IN MIDWIFERY OR MENTAL HEALTH NURSING (AS THE CASE MAY BE) FROM AN AUSTRALIAN INSTITUTION THAT IS ACCREDITED BY THE BOARD OR APPROVED BY A REGISTRATION AUTHORITY OF A STATE OR ANOTHER TERRITORY AND THE PERSON HAS PRACTISED AS EITHER A GENERAL NURSE, MIDWIFE OR MENTAL HEALTH NURSE IN THE FIVE YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION.

a

2219

WHERE THE PERSON HAS GRADUATED FROM SUCH A COURSE OF TRAINING MORE THAN 5 YEARS BEFORE THE DATE OF APPLICATION FOR REGISTRATION OR HAS NOT PRACTISED AS A NURSE WITHIN THE PERIOD OF 5 YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION, THE NURSE WILL BE REQUIRED UNDERTAKE FURTHER EDUCATION OR TRAINING AND PASS EXAMINATIONS AS REQUIRED BY THE BOARD.

A PERSON IS ENTITLED TO UNCONDITIONAL REGISTRATION AS A MIDWIFE OR MENTAL HEALTH NURSE IF THE PERSON IS REGISTERED OR ENTITLED TO BE REGISTERED AS A GENERAL NURSE UNDER THIS ACT, AND IS A GRADUATE OF A COURSE OF STUDY OR TRAINING IN MIDWIFERY OR MENTAL HEALTH NURSING (AS THE CASE MAY BE) FROM AN INSTITUTION OUTSIDE AUSTRALIA WHICH IS SUBSTANTIALLY EQUIVALENT TO AN AUSTRALIAN COURSE AND ENTITLES THE PERSON TO PRACTISE AS A NURSE OF THAT KIND IN THAT PLACE, AND HAS UNDERTAKEN SUCH FURTHER EDUCATION OR TRAINING OR GAINED EXPERIENCE IN NURSING AND PASSED SUCH EXAMINATIONS AS THE BOARD REQUIRES.

THE BILL ALSO INTRODUCES UNIFORM QUALIFICATIONS FOR ENROLMENT.

A PERSON IS ENTITLED TO BE UNCONDITIONALLY ENROLLED AS AN ENROLLED NURSE OR MOTHERCRAFT NURSE IF THE PERSON IS A GRADUATE OF A COURSE OF EDUCATION OR TRAINING FROM AN AUSTRALIAN INSTITUTION BEING A COURSE THAT IS ACCREDITED BY THE BOARD OR APPROVED BY A REGISTRATION AUTHORITY OF A STATE OR ANOTHER TERRITORY FOR THE TRAINING OF PERSONS TO BE ENROLLED NURSES OR MOTHERCRAFT NURSES (AS THE CASE MAY BE).

2220

5

A PERSON IS ALSO ENTITLED TO BE UNCONDITIONALLY ENROLLED AS AN ENROLLED NURSE OR MOTHERCRAFT NURSE IF THE PERSON IS A GRADUATE OF A COURSE OF EDUCATION OR TRAINING FROM AN INSTITUTION OUTSIDE AUSTRALIA WHICH IS SUBSTANTIALLY EQUIVALENT TO AN AUSTRALIAN COURSE FOR THE TRAINING OF PERSONS TO BE ENROLLED OR MOTHERCRAFT NURSES (AS THE CASE MAY BE) AND WHICH QUALIFIES THE PERSON TO PRACTISE AS A NURSE OF THAT KIND IN THAT PLACE, AND HAS UNDERTAKEN SUCH FURTHER EDUCATION OR GAINED EXPERIENCE IN NURSING AND PASSED SUCH EXAMINATIONS AS THE BOARD REQUIRES.

AS WELL AS INTRODUCING UNIFORM QUALIFICATIONS FOR REGISTRATION AND ENROLMENT, THE BILL ALSO INTRODUCES UNIFORM CATEGORIES OF REGISTRATION OR ENROLMENT.

THE NEW REGISTRATION AND ENROLMENT ARRANGEMENTS DISTINGUISH 'INITIAL REGISTRATION' OR 'INITIAL ENROLMENT' FROM SUBSEQUENT STREAMLINED PROCEDURES FOR REGISTERING OR ENROLLING NURSES FROM PARTICIPATING JURISDICTIONS UNDER THE MUTUAL RECOGNITION ARRANGEMENTS.

REGISTRATION 'WITH CONDITIONS' MAY BE GRANTED AT THE DISCRETION OF THE BOARD ON A TEMPORARY BASIS TO ENABLE A NURSE TO UNDERTAKE A COURSE OF EDUCATION OR TRAINING OR GAIN EXPERIENCE IN NURSING, TO FILL A TEACHING OR RESEARCH POSITION, OR IF THE BOARD CONSIDERS THAT IT IS IN THE PUBLIC INTEREST TO REGISTER A NURSE FOR A SPECIFIC PURPOSE.

THE NURSES BOARD'S DISCIPLINARY POWERS HAVE BEEN EXPANDED TO PROVIDE FOR A UNIFORM RANGE OF SANCTIONS TO BE IMPOSED EITHER SINGULARLY OR IN COMBINATION IN RESPECT TO DISCIPLINARY ACTION OR IN CASES OF IMPAIRMENT.

THESE POWERS ARE SIMILAR TO THOSE OF BOARDS IN OTHER JURISDICTIONS AND THEREFORE ANY SANCTIONS IMPOSED IN THOSE CIRCUMSTANCES WILL BE RECOGNISED IN PARTICIPATING JURISDICTIONS FOR THE PURPOSES OF MUTUAL RECOGNITION.

a

2221

THE TRANSITIONAL PROVISIONS WILL ENSURE CONTINUATION OF REGISTRATION, OR ENROLMENT, FOR NURSES REGISTERED OR ENROLLED UNDER THE NURSES ACT 1988 ON THE SAME TERMS AND SUBJECT TO THE SAME CONDITIONS AS APPLIED TO THEIR REGISTRATION OR ENROLMENT (AS THE CASE MAY BE) IMMEDIATELY BEFORE THE COMMENCEMENT OF THE NEW PROVISIONS.

PROVISIONS ARE ALSO MADE IN RESPECT TO PERSONS WHO APPLIED FOR REGISTRATION OR ENROLMENT, WERE GRANTED PROVISIONAL REGISTRATION OR ENROLMENT OR WHO FAILED TO PAY THE ANNUAL FEE UNDER THE PRINCIPAL ACT.

TRANSITIONAL ARRANGEMENTS PROVIDE FOR THE CONTINUATION OF INQUIRIES AND REVIEWS OR THE INVESTIGATION OF COMPLAINTS IN RELATION TO PREVIOUS CONDUCT WHICH WERE PENDING OR UNDERWAY IMMEDIATELY PRIOR TO THE ENACTMENT OF THE PRESENT AMENDMENTS.

DECISIONS OF THE NURSES BOARD IN RESPECT TO REGISTRATION OR ENROLMENT, DISCIPLINARY AND IMPAIRMENT MATTERS WILL BE SUBJECT TO REVIEW BY THE ADMINISTRATIVE APPEALS TRIBUNAL.

IN ADDITION, THE BILL PROVIDES FOR A NUMBER OF AMENDMENTS OF A HOUSEKEEPING NATURE TO REMOVE SEXIST LANGUAGE AND REDUNDANT PROVISIONS DEALING WITH REGISTRATION OF INTERSTATE PRACTITIONERS AND PERSONAL ATTENDANCE REQUIREMENTS WHICH WILL NOW BE DEALT WITH UNDER THE MUTUAL RECOGNITION LEGISLATIVE FRAMEWORK.

2222

APPENDIX 6:
(Incorporated in Hansard on 16 June 1994¹⁹⁹⁴ at page 2022)

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY
VETERINARY SURGEONS (AMENDMENT) BILL 1994
PRESENTATION SPEECH

Presented by
Minister for Health
Terry Connolly MLA

2223

16 June 1994

2

MADAM SPEAKER, THE VETERINARY SURGEONS (AMENDMENT) BILL 1994 IS ANOTHER IN A SERIES OF A.C.T. HEALTH PROFESSIONS REGISTRATION LAWS TO BE AMENDED FOR THE PURPOSE OF ENSURING THAT REGISTRATION AND CERTAIN OTHER PROVISIONS OF THE ACT ARE CONSISTENT WITH THE REQUIREMENTS FOR REGISTRATION IN OTHER JURISDICTIONS.

THE VETERINARY SURGEONS (AMENDMENT) BILL 1994 AMENDS THE VETERINARY SURGEONS REGISTRATION ACT 1965 AND PROVIDES FOR NATIONALLY AGREED UNIFORM STANDARDS AND ARRANGEMENTS FOR REGULATING VETERINARY SURGEONS, AS WELL AS FOR A RANGE UNIFORM SANCTIONS WHICH CAN BE IMPOSED ON A VETERINARY SURGEON IN DISCIPLINARY MATTERS OR ON HEALTH GROUNDS.

IN PARTICULAR THE BILL RECOGNISES THE ENTITLEMENT TO REGISTRATION IN THE A.C.T. OF A PERSON WHO IS REGISTERED AS A VETERINARY SURGEON IN A STATE OR ANOTHER TERRITORY.

IT ALSO PROVIDES FOR THE VETERINARY SURGEONS BOARD TO RECOGNISE CONDITIONS WHICH MAY HAVE BEEN IMPOSED ON THE REGISTRATION OF A VETERINARY SURGEON IN ANOTHER JURISDICTION AS A RESULT OF DISCIPLINARY ACTION AND APPLY THE SAME CONDITIONS ON THE PERSON'S REGISTRATION IN THE TERRITORY.

THESE PROVISIONS ARE CONSISTENT WITH THE MUTUAL RECOGNITION PROVISIONS RELATING TO OCCUPATIONS AS SET OUT IN SECTION 17 OF THE COMMONWEALTH MUTUAL RECOGNITION ACT 1992.

THE APPLICATION OF THAT PRINCIPLE TO THE TERRITORY AND TO OTHER JURISDICTIONS HAS GIVEN RISE TO THE DESIRABILITY OF ADOPTING AGREED MINIMUM REQUIREMENTS FOR REGISTRATION AS A VETERINARY SURGEON.

2224

3

MADAM SPEAKER, UNLESS ALL JURISDICTIONS, WHERE MUTUAL RECOGNITION APPLIES, HAVE THE SAME STANDARDS FOR REGISTERING A PERSON AS A VETERINARY SURGEON, THE JURISDICTION WITH A LOWER STANDARD WILL PROVIDE A MEANS FOR A PERSON WHO SATISFIES THAT STANDARD, BUT NOT THE HIGHER STANDARDS REQUIRED IN THE OTHER JURISDICTIONS, TO THEN GAIN REGISTRATION IN THOSE JURISDICTIONS UNDER THE MUTUAL RECOGNITION PRINCIPLE

THE BILL INTRODUCES UNIFORM QUALIFICATIONS FOR REGISTRATION.

TO BE ELIGIBLE FOR GENERAL (UNCONDITIONAL) REGISTRATION APPLICANTS MUST BE GRADUATES OF A COURSE OF STUDY IN VETERINARY SURGERY FROM AN AUSTRALIAN INSTITUTION WHICH IS ACCREDITED BY THE BOARD OR A REGISTRATION AUTHORITY IN STATE OR ANOTHER TERRITORY.

UNCONDITIONAL REGISTRATION MAY ALSO BE GRANTED TO PERSONS WHO ARE GRADUATES FROM A COURSE IN VETERINARY SURGERY FROM AN OVERSEAS INSTITUTION WHICH IS ACCREDITED BY THE BOARD AND PROVIDING THE PERSON HAS UNDERTAKEN SUCH FURTHER EDUCATION AND TRAINING, GAINED SUCH EXPERIENCE IN PRACTISING VETERINARY SURGERY AND PASSED SUCH EXAMINATIONS AS THE BOARD REQUIRES.

THE BILL ALSO INTRODUCES UNIFORM CATEGORIES OF REGISTRATION.

THE NEW REGISTRATION ARRANGEMENTS DISTINGUISH 'INITIAL REGISTRATION' FROM SUBSEQUENT STREAMLINED MUTUAL RECOGNITION PROCEDURES FOR REGISTERED VETERINARY SURGEONS FROM PARTICIPATING JURISDICTIONS UNDER THE MUTUAL RECOGNITION ARRANGEMENTS.

IN ADDITION TO UNCONDITIONAL REGISTRATION THE BOARD HAS A DISCRETIONARY POWER TO REGISTER A PERSON 'WITH CONDITIONS' TO LIMIT THE PERSON'S ABILITY TO PRACTISE IN A WAY THE VETERINARY SURGEONS BOARD CONSIDERS APPROPRIATE FOR THAT PERSON.

2225

THE VETERINARY SURGEONS BOARD'S DISCIPLINARY POWERS HAVE BEEN EXPANDED TO PROVIDE FOR A RANGE OF UNIFORM SANCTIONS WHICH CAN BE IMPOSED EITHER SINGULARLY OR IN COMBINATION ON A PERSON'S REGISTRATION AS A RESULT OF DISCIPLINARY ACTION OR IN CASES OF IMPAIRMENT.

THERE IS A REQUIREMENT FOR THE BOARD TO HOLD AN INQUIRY PRIOR TO IMPOSING ANY OF THE EXPANDED RANGE OF SANCTIONS ON A PERSON'S PRACTISE.

WHERE A VETERINARY SURGEON HAS HAD CONDITIONS IMPOSED ON HIS OR HER REGISTRATION UNDER THE IMPAIRMENT PROVISIONS, THAT PERSON MAY REQUEST THE BOARD TO REVIEW THOSE CONDITIONS. IF THE BOARD IS SATISFIED THAT THE IMPAIRMENT HAS LESSENERD OR THAT THE PERSON NO LONGER SUFFERS FROM THAT IMPAIRMENT, IT MAY REMOVE THE CONDITIONS OR IMPOSE NEW CONDITIONS ON THE PERSON'S REGISTRATION.

WHERE THE BOARD REFUSES TO REVIEW THE CONDITIONS IMPOSED ON A PERSON'S REGISTRATION UNDER THESE CIRCUMSTANCES THERE IS A RIGHT OF APPEAL TO THE ADMINISTRATIVE APPEALS TRIBUNAL.

THE TRANSITIONAL PROVISIONS WILL ENSURE CONTINUATION OF REGISTRATION FOR A VETERINARY SURGEON REGISTERED UNDER THE VETERINARY SURGEONS REGISTRATION ACT 1965 ON THE SAME TERMS AND SUBJECT TO THE SAME CONDITIONS AS APPLIED TO HIS OR HER REGISTRATION IMMEDIATELY BEFORE THE COMMENCEMENT OF THE NEW PROVISIONS.

THE TRANSITIONAL ARRANGEMENTS ALSO ENTITLE PERSONS WHO WERE GRANTED PROVISIONAL REGISTRATION UNDER THE PRINCIPAL ACT TO INTERIM REGISTRATION UNDER THE NEW PROVISIONS. A PERSON HAS FAILED TO PAY THE ANNUAL FEE THAT BECAME PAYABLE BY HIM OR HER UNDER THE PRINCIPAL ACT, AND WHOSE REGISTRATION WAS CANCELLED FOR FAILURE TO PAY THE FEE, SHALL BE TAKEN TO HAVE HAD HIS OR HER REGISTRATION CANCELLED.

5

MADAM SPEAKER, THE TRANSITIONAL ARRANGEMENTS ALSO PROVIDE FOR THE CONTINUATION OF INQUIRIES AND REVIEWS, OR THE INVESTIGATION OF COMPLAINTS IN RELATION TO THE VETERINARY SURGEON'S PREVIOUS CONDUCT, WHICH WERE PENDING OR UNDERWAY IMMEDIATELY PRIOR TO THE ENACTMENT OF THE PRESENT AMENDMENTS.

DECISIONS BY THE VETERINARY SURGEONS BOARD IN RESPECT TO REGISTRATION, DISCIPLINARY AND IMPAIRMENT MATTERS WILL BE SUBJECT TO REVIEW BY THE ADMINISTRATIVE APPEALS TRIBUNAL.

MADAM SPEAKER, ADDITIONAL PROVISIONS HAVE BEEN INCLUDED IN THE IN THE BILL WHICH ENTITLE A PERSON TO REGISTER AS A SPECIALIST VETERINARY SURGEON IF THE PERSON HOLDS A QUALIFICATION IN A SPECIALIST BRANCH OF VETERINARY SURGERY WHICH IS ACCREDITED BY THE BOARD OR APPROVED BY A REGISTRATION AUTHORITY IN A STATE OR ANOTHER TERRITORY, AND IF THE PERSON HAS GAINED SUCH EXPERIENCE PRACTISING IN THAT SPECIALIST BRANCH OF VETERINARY SURGERY AS THE BOARD REQUIRES.

THE PROVISIONS PERTAINING TO SPECIALIST REGISTRATION ENSURE THAT A PERSON WHO IS A REGISTERED SPECIALIST VETERINARY SURGEON IS SUBJECT TO THE SAME PROVISIONS RELATING TO REGISTRATION, IMPAIRMENT AND DISCIPLINARY MATTERS AS APPLY TO A REGISTERED VETERINARY SURGEON.

THE TRANSITIONAL PROVISIONS, MADAM SPEAKER, ALSO PROVIDE FOR CERTAIN PERSONS, WHO MAY NOT HOLD RECOGNISED QUALIFICATIONS IN A SPECIALIST BRANCH OF VETERINARY SURGERY SO AS TO ENTITLE THE PERSON TO REGISTRATION AS A SPECIALIST, TO MAKE APPLICATION TO THE VETERINARY SURGEONS BOARD, WITHIN TWELVE MONTHS OF THE ENACTMENT OF THE NEW PROVISIONS, FOR REGISTRATION AS A SPECIALIST VETERINARY SURGEON.

a

2227

16 June 1994

6

ENTITLEMENT TO REGISTRATION AS A SPECIALIST UNDER THE TRANSITIONAL PROVISIONS IS RESTRICTED TO PERSONS WHO: HAVE BEEN REGISTERED AND PRACTISING AS A VETERINARY SURGEON FOR A PERIOD OF SIX YEARS IMMEDIATELY PRECEDING THE DATE OF APPLICATION, DURING WHICH PERIOD THEY HAVE PRACTISED VETERINARY SURGERY IN THE A.C.T. FOR NOT LESS THAN FOUR YEARS AND SIX MONTHS; AND HAVE PRACTISED IN THE SPECIALIST BRANCH OF VETERINARY SURGERY FOR NOT LESS THAN FIVE YEARS.

THIS PROVISION ALLOWS THE VETERINARY SURGEONS BOARD TO IMPOSE CONDITIONS ON THE REGISTRATION OF A PERSON TO WHOM IT GRANTS REGISTRATION AS A SPECIALIST VETERINARY SURGEON UNDER THE TRANSITIONAL PROVISIONS.

THE BILL ALSO PROVIDES FOR A NUMBER OF AMENDMENTS OF A HOUSEKEEPING NATURE TO REMOVE SEXIST LANGUAGE AND REDUNDANT PROVISIONS DEALING WITH REGISTRATION OF INTERSTATE PRACTITIONERS AND PERSONAL ATTENDANCE REQUIREMENTS WHICH WILL NOW BE DEALT WITH UNDER THE MUTUAL RECOGNITION LEGISLATIVE FRAMEWORK.

2228

APPENDIX 7:
(Incorporated in Hansard on 16 June 1994 at page 2023)
1994

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY
PHYSIOTHERAPISTS (AMENDMENT) BILL 1994
PRESENTATION SPEECH
Presented by the
Minister for Health
Terry Connolly MLA

2229

16 June 1994

2

MADAM SPEAKER, THE PHYSIOTHERAPISTS (AMENDMENT) BILL 1994 IS ANOTHER IN A SERIES OF A.C.T. HEALTH PROFESSIONS REGISTRATION LAWS TO BE AMENDED IN LINE WITH THE AUSTRALIAN HEALTH MINISTERS' AGREEMENT TO ADOPT CONSISTENT STANDARDS IN RELATION TO THE REGULATION OF HEALTH OCCUPATIONS.

THE PHYSIOTHERAPISTS (AMENDMENT) BILL 1994 AMENDS THE PHYSIOTHERAPISTS ACT 1977 AND PROVIDES FOR NATIONALLY AGREED UNIFORM STANDARDS AND ARRANGEMENTS FOR REGULATING PHYSIOTHERAPISTS AS WELL AS FOR A RANGE OF UNIFORM SANCTIONS WHICH CAN BE IMPOSED ON A PHYSIOTHERAPIST IN DISCIPLINARY MATTERS OR ON HEALTH GROUNDS.

IN PARTICULAR THE BILL RECOGNISES THE ENTITLEMENT, OF A PERSON WHO IS REGISTERED AS A PHYSIOTHERAPIST IN A STATE OR ANOTHER TERRITORY, TO REGISTRATION IN THE A.C.T.

IT ALSO PROVIDES FOR THE PHYSIOTHERAPISTS BOARD TO RECOGNISE CONDITIONS WHICH MAY HAVE BEEN IMPOSED ON THE REGISTRATION OF A PHYSIOTHERAPIST IN ANOTHER JURISDICTION AS A RESULT OF DISCIPLINARY ACTION AND APPLY THE SAME CONDITIONS ON THE PERSON'S REGISTRATION IN THE TERRITORY.

THESE PROVISIONS ARE CONSISTENT WITH THE MUTUAL RECOGNITION PROVISIONS RELATING TO OCCUPATIONS AS SET OUT IN SECTION 17 OF THE COMMONWEALTH MUTUAL RECOGNITION ACT 1992.

THE APPLICATION OF THAT PRINCIPLE TO THE TERRITORY AND TO OTHER JURISDICTIONS HAS GIVEN RISE TO THE DESIRABILITY OF ADOPTING AGREED MINIMUM REQUIREMENTS FOR REGISTRATION AS A PHYSIOTHERAPIST.

2230

3

MADAM SPEAKER, UNLESS ALL JURISDICTIONS, WHERE MUTUAL RECOGNITION APPLIES, HAVE THE SAME STANDARDS FOR REGISTERING A PERSON AS A PHYSIOTHERAPIST, THE JURISDICTION WITH A LOWER STANDARD WILL PROVIDE A MEANS FOR A PERSON WHO SATISFIES THAT STANDARD, BUT NOT THE HIGHER STANDARDS REQUIRED IN THE OTHER JURISDICTIONS, TO THEN GAIN REGISTRATION IN THOSE JURISDICTIONS UNDER THE MUTUAL RECOGNITION PRINCIPLE.

THE BILL ALSO INTRODUCES UNIFORM QUALIFICATIONS FOR REGISTRATION.

TO BE ELIGIBLE FOR GENERAL (UNCONDITIONAL) REGISTRATION APPLICANTS MUST BE GRADUATES OF A COURSE OF STUDY IN PHYSIOTHERAPY FROM AN AUSTRALIAN INSTITUTION AND, IF REQUIRED BY THE BOARD, HAVE UNDERTAKEN FURTHER EDUCATION AND TRAINING AS THE BOARD DETERMINES BUT NOT EXCEEDING SIX MONTHS.

UNCONDITIONAL REGISTRATION MAY ALSO BE GRANTED TO PERSONS WHO ARE GRADUATES FROM A COURSE IN PHYSIOTHERAPY FROM AN OVERSEAS INSTITUTION WHICH IS SUBSTANTIALLY EQUIVALENT TO AN AUSTRALIAN COURSE AND WHICH QUALIFIES THE PERSON TO PRACTISE PHYSIOTHERAPY IN THAT PLACE, PROVIDING THE PERSON HAS UNDERTAKEN SUCH FURTHER EDUCATION AND TRAINING, GAINED SUCH EXPERIENCE IN PRACTISING PHYSIOTHERAPY AND PASSED SUCH EXAMINATIONS AS THE BOARD REQUIRES. THE PERIOD FOR GAINING EXPERIENCE IN THE PRACTISE OF PHYSIOTHERAPY, HOWEVER, IS NOT TO EXCEED TWELVE MONTHS.

THE BILL ALSO INTRODUCES UNIFORM CATEGORIES OF REGISTRATION.

THE NEW REGISTRATION ARRANGEMENTS DISTINGUISH INITIAL REGISTRATION' FROM SUBSEQUENT STREAMLINED MUTUAL RECOGNITION PROCEDURES FOR REGISTERED PHYSIOTHERAPISTS FROM PARTICIPATING JURISDICTIONS UNDER THE MUTUAL RECOGNITION ARRANGEMENTS.

2231

IN ADDITION TO UNCONDITIONAL REGISTRATION THE BOARD HAS A DISCRETIONARY POWER TO REGISTER A PERSON 'WITH CONDITIONS' TO LIMIT THE PERSON'S ABILITY TO PRACTISE IN A WAY THE PHYSIOTHERAPISTS BOARD CONSIDERS SAFE OR APPROPRIATE FOR THAT PERSON OR FOR PROTECTION OF THE PUBLIC.

THE PHYSIOTHERAPISTS BOARD'S DISCIPLINARY POWERS HAVE BEEN EXPANDED TO PROVIDE FOR A RANGE OF UNIFORM SANCTIONS WHICH CAN BE IMPOSED EITHER SINGULARLY OR IN COMBINATION ON A PERSON'S REGISTRATION AS A RESULT OF DISCIPLINARY ACTION OR IN CASES OF IMPAIRMENT.

THERE IS A REQUIREMENT FOR THE BOARD TO HOLD AN INQUIRY-PRIOR TO IMPOSING ANY OF THE EXPANDED RANGE OF SANCTIONS ON A PERSON'S PRACTISE.

WHERE A PHYSIOTHERAPIST HAS HAD CONDITIONS IMPOSED ON HIS OR HER REGISTRATION UNDER THE IMPAIRMENT PROVISIONS, THAT PERSON MAY REQUEST THE BOARD TO REVIEW THOSE CONDITIONS. IF THE BOARD IS SATISFIED THAT THE IMPAIRMENT HAS LESSENERD OR THAT THE PERSON NO LONGER SUFFERS FROM THAT IMPAIRMENT, IT MAY REMOVE THE CONDITIONS OR IMPOSE NEW CONDITIONS ON THE PERSON'S REGISTRATION.

WHERE THE BOARD REFUSES TO REVIEW THE CONDITIONS IMPOSED ON A PERSON'S REGISTRATION UNDER THESE CIRCUMSTANCES THERE IS A RIGHT OF APPEAL TO THE ADMINISTRATIVE APPEALS TRIBUNAL.

THE TRANSITIONAL PROVISIONS WILL ENSURE CONTINUATION OF REGISTRATION FOR PHYSIOTHERAPISTS REGISTERED UNDER THE PHYSIOTHERAPISTS ACT 1977 ON THE SAME TERMS AND SUBJECT TO THE SAME CONDITIONS AS APPLIED TO THEIR REGISTRATION IMMEDIATELY BEFORE THE COMMENCEMENT OF THE NEW PROVISIONS.

THE TRANSITIONAL ARRANGEMENTS ALSO ENTITLE PERSONS WHO WERE GRANTED PROVISIONAL REGISTRATION UNDER THE PRINCIPAL ACT TO INTERIM REGISTRATION UNDER THE NEW PROVISIONS.

5

A PERSON WHO HAS FAILED TO PAY THE ANNUAL FEE THAT BECAME PAYABLE BY HIM OR HER UNDER THE PRINCIPAL ACT, AND WHOSE REGISTRATION WAS CANCELLED FOR FAILURE TO PAY THE FEE SHALL BE TAKEN TO HAVE HAD HIS OR HER REGISTRATION CANCELLED.

MADAM SPEAKER, THE TRANSITIONAL ARRANGEMENTS ALSO PROVIDE FOR THE CONTINUATION OF INQUIRIES AND REVIEWS OR THE INVESTIGATION OF COMPLAINTS IN RELATION TO THE PHYSIOTHERAPIST'S PREVIOUS CONDUCT WHICH WERE PENDING OR UNDERWAY IMMEDIATELY PRIOR TO THE ENACTMENT OF THE PRESENT AMENDMENTS.

DECISIONS BY THE PHYSIOTHERAPISTS BOARD IN RESPECT TO REGISTRATION, DISCIPLINARY AND IMPAIRMENT MATTERS WILL BE SUBJECT TO REVIEW BY THE ADMINISTRATIVE APPEALS TRIBUNAL.

MADAM SPEAKER, AN ADDITIONAL PROVISION HAS BEEN INCLUDED IN THE BILL TO EXEMPT CERTAIN PERSONS FROM THE PROVISIONS OF THE ACT.

THESE PROVISIONS RELATE TO VISITING PHYSIOTHERAPISTS WHO RESIDE OUTSIDE THE TERRITORY AND WHO PROVIDE A PHYSIOTHERAPY SERVICE TO A MEMBER OF A VISITING SPORTING BODY, ASSOCIATION OR ORGANISATION FROM OUTSIDE THE TERRITORY FOR THE PURPOSE OF ASSISTING THE MEMBER TO PARTICIPATE IN A SPORTING EVENT OR ACTIVITY. THESE PERSONS ARE NOT REQUIRED TO BE REGISTERED UNDER THE PHYSIOTHERAPISTS ACT 1977 PROVIDING THAT THE PERSON IS ENTITLED TO LAWFULLY PROVIDE THAT SERVICE IN HIS OR HER PLACE OF RESIDENCE.

THE BILL ALSO PROVIDES FOR A NUMBER OF AMENDMENTS OF A HOUSEKEEPING NATURE TO REMOVE SEXIST LANGUAGE AND REDUNDANT PROVISIONS DEALING WITH REGISTRATION OF INTERSTATE PRACTITIONERS AND PERSONAL ATTENDANCE REQUIREMENTS WHICH WILL NOW BE DEALT WITH UNDER THE MUTUAL RECOGNITION LEGISLATIVE FRAMEWORK.

a
2233

16 June 1994

APPENDIX 8:

(Incorporated in Hansard on 16 June 1994 at page 2023)

1994
LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY
ADMINISTRATIVE APPEALS TRIBUNAL
(AMENDMENT) BILL (NO. 2) 1994
PRESENTATION SPEECH
Circulated by authority of
Terry Connolly MLA
Attorney General

2234

MADAM SPEAKER, THE MAIN PURPOSE OF THIS BILL IS TO CLARIFY AND STREAMLINE SOME OF THE PROCEDURES OF THE ADMINISTRATIVE APPEALS TRIBUNAL. THE BILL ALSO PROVIDES FOR MEDIATION AND A CODE OF PRACTICE TO SET MINIMUM STANDARDS FOR NOTICES OF DECISIONS AND RIGHTS OF REVIEW.

THE BACKGROUND TO THE AMENDMENTS IN THIS BILL CAN BE FOUND IN EVENTS WHICH HAVE OCCURRED AT THE COMMONWEALTH LEVEL IN RESPECT OF THE COMMONWEALTH TRIBUNAL.

BETWEEN OCTOBER 1990 AND NOVEMBER 1991 THE OPERATIONS OF THE COMMONWEALTH TRIBUNAL WERE REVIEWED BY REPRESENTATIVES OF THE COMMONWEALTH TRIBUNAL, THE COMMONWEALTH ATTORNEY-GENERAL'S DEPARTMENT AND THE DEPARTMENT OF FINANCE. THE REPORT ARISING FROM THIS REVIEW MADE A NUMBER OF RECOMMENDATIONS.

MADAM SPEAKER, WHEN THE TRIBUNAL WAS ESTABLISHED IN 1989 IT WAS MODELLED ON THE EXISTING COMMONWEALTH TRIBUNAL. NOT SURPRISINGLY, A NUMBER OF RECOMMENDATIONS IN THE REPORT OF THE REVIEW OF THE COMMONWEALTH TRIBUNAL HAVE EQUAL IMPORTANCE AND RELEVANCE TO OUR BODY. THIS BILL WILL IMPLEMENT THOSE RECOMMENDATIONS.

2235

16 June 1994

2.

MADAM SPEAKER, THE AMENDMENTS BASED ON THOSE RECOMMENDATIONS ARE OF A MINOR POLICY NATURE AND MOSTLY TECHNICAL IN NATURE. NEVERTHELESS, THEY WILL ENABLE THE TRIBUNAL TO OPERATE MORE FLEXIBLY AND WILL ASSIST THE TRIBUNAL TO ACHIEVE MAXIMUM EFFICIENCY.

FOR EXAMPLE, THE AMENDMENTS TO SECTION 18 OF THE ACT WILL PROVIDE A CLEARER STATEMENT OF THE PRESIDENT'S ROLE AND FUNCTIONS IN RELATION TO THE ARRANGEMENT OF BUSINESS OF THE TRIBUNAL AND WILL PROVIDE THAT THE PRESIDENT MAY GIVE DIRECTIONS AS TO THE PROCEDURES TO BE FOLLOWED GENERALLY IN PROCEEDINGS IN THE TRIBUNAL.

THERE ARE A NUMBER OF OTHER EXAMPLES. AT PRESENT THE TRIBUNAL CONVENES DIRECTIONS HEARINGS BUT THEY ARE NOT FORMALLY RECOGNISED IN THE ACT AND THEIR STATUS IS UNCLEAR. THE AMENDMENTS TO SECTION 32 WILL GIVE FORMAL RECOGNITION TO DIRECTIONS HEARINGS.

2236

THE ACT DOES NOT FORMALLY RECOGNISE TELEPHONE HEARINGS AND CONFERENCES YET THEY ARE REGULARLY USED BY THE TRIBUNAL. CLAUSE 15 WILL INSERT SECTION 34A WHICH EXPRESSLY PROVIDES THAT THE TRIBUNAL MAY ALLOW A PERSON TO PARTICIPATE IN PROCEEDINGS BY TELEPHONE, CLOSED CIRCUIT TELEVISION AND ANY OTHER MEANS OF COMMUNICATION.

AMENDMENTS TO SECTION 43 AND THE INSERTION OF A NEW SECTION 43A WILL EXPAND THE TRIBUNAL'S POWERS TO DISMISS APPLICATIONS. THERE WILL BE A NEW POWER TO DISMISS MATTERS WHERE THERE IS DELAY BY THE APPLICANT IN PURSUING THE APPLICATION, WHERE THERE IS NOT A REVIEWABLE DECISION OR WHERE THE APPLICATION IS FRIVOLOUS OR VEXATIOUS.

MADAM SPEAKER, AS I MENTIONED AT THE OUTSET, THE BACKGROUND TO THE AMENDMENTS IN THIS BILL CAN BE FOUND IN EVENTS WHICH HAVE OCCURRED IN RELATION TO THE COMMONWEALTH TRIBUNAL. THIS IS AGAIN THE CASE IN RELATION TO THOSE AMENDMENTS WHICH PROVIDE FOR THE INTRODUCTION OF A CODE OF PRACTICE TO SET MINIMUM STANDARDS FOR NOTICES OF DECISIONS AND RIGHTS OF REVIEW.

s

2237

16 June 1994

4.

THESE AMENDMENTS ARISE FROM A RECOMMENDATION OF THE COMMONWEALTH ADMINISTRATIVE REVIEW COUNCIL. THE COUNCIL WAS ESTABLISHED TO MONITOR THE SCOPE AND OPERATION OF THE COMMONWEALTH ADMINISTRATIVE REVIEW SYSTEM.

GIVEN THAT RIGHTS OF REVIEW ARE CONFERRED BY LEGISLATION, THE COUNCIL CONSIDERED THAT, GOVERNMENTS SHOULD TAKE REASONABLE STEPS TO ENSURE THAT PERSONS WHO ARE AFFECTED BY REVIEWABLE DECISIONS ARE AWARE OF ANY RIGHTS OF REVIEW THEY MAY HAVE IN RELATION TO THOSE DECISIONS.

THE COUNCIL THEREFORE RECOMMENDED IN RELATION TO COMMONWEALTH ADMINISTRATION THAT A CODE OF PRACTICE SHOULD BE INTRODUCED TO SET MINIMUM STANDARDS FOR NOTICES OF DECISIONS AND RIGHTS OF REVIEW. THIS RECOMMENDATION HAS BEEN IMPLEMENTED BY THE COMMONWEALTH AND IT IS APPROPRIATE THAT IT ALSO BE IMPLEMENTED IN RESPECT OF THE A.C.T. ADMINISTRATIVE REVIEW SYSTEM. THAT IS WHAT THIS BILL WILL DO.

2238

5.

MADAM SPEAKER, THE BILL WILL ALSO ENABLE THE TRIBUNAL TO USE MEDIATION TO RESOLVE DISPUTES. THIS IS A VERY IMPORTANT ASPECT OF THE BILL. MEDIATION IS ALREADY A FEATURE OF THE COMMONWEALTH TRIBUNAL.

AS MEMBERS WILL BE AWARE, IN MEDIATION, A NEUTRAL THIRD PERSON ASSISTS THE PARTIES TO ARRIVE AT THEIR OWN SOLUTION TO THEIR DISPUTE. THE ESSENCE OF MEDIATION IS THAT THE PARTIES ARE EMPOWERED TO PRODUCE THE RESULT THAT IS BEST SUITED TO THEIR OWN CIRCUMSTANCES.

OF COURSE NOT ALL MATTERS ARE SUITABLE FOR MEDIATION. THE PROCESS OF MEDIATION REQUIRES THE CONTINUED CONSENT AND CO-OPERATION OF THE PARTIES.

THIS GOVERNMENT SUPPORTS MEDIATION BECAUSE THERE IS A COMMUNITY BENEFIT IN PEOPLE USING NEGOTIATION, DISCUSSION AND OTHER POSITIVE METHODS OF RESOLVING CONFLICT. IT WILL BE REMEMBERED THAT THE GOVERNMENT WHOLE HEARTEDLY SUPPORTED THE RECENT LAW SOCIETY INITIATIVE CALLED "MEDIATE FIRST".

2239

16 June 1994

6.

THE COSTS OF JUSTICE ESCALATE WITH EACH PASSING YEAR WHICH IS OF GREAT CONCERN TO THE GOVERNMENT. THE ABILITY OF ADDITIONAL DISPUTE RESOLUTION METHODS, AND IN PARTICULAR MEDIATION, TO PROVIDE A COST EFFICIENT SOLUTION IS WHY THEY HAVE A CRUCIAL ROLE TO PLAY IN OUR JUSTICE SYSTEM.

I EXPECT THE TRIBUNAL TO ACTIVELY ENCOURAGE MEDIATION BY REFERRING SUITABLE MATTERS TO MEDIATION.

MADAM SPEAKER, THOSE ARE THE MAIN FEATURES OF THIS BILL. I COMMEND THE BILL TO THE ASSEMBLY.

2240

APPENDIX 9:

(Incorporated in Hansard on 16 June 1994 at page 2024)

1994
LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY
INTERPRETATION
(AMENDMENT) BILL 1994
PRESENTATION SPEECH
Circulated by authority of
Terry Connolly MLA
Attorney General

2241

16 June 1994

MADAM SPEAKER, THE SOLE PURPOSE OF THIS BILL IS TO INSERT A DEFINITION OF THE ADMINISTRATIVE APPEALS TRIBUNAL INTO THE INTERPRETATION ACT 1967.

I COMMEND THE BILL TO THE ASSEMBLY.

2242

APPENDIX 10:

(Incorporated in Hansard on 16 June 1994 at page 2024)

1994
LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY
ADMINISTRATIVE APPEALS
(CONSEQUENTIAL AMENDMENTS)
BILL 1994
PRESENTATION SPEECH
Circulated by authority of
Terry Connolly MLA
Attorney General

2243

16 June 1994

MADAM SPEAKER, THE PRIMARY PURPOSE OF THIS BILL IS TO MAKE AMENDMENTS CONSEQUENTIAL TO THE AMENDMENTS FOUND IN THE ADMINISTRATIVE APPEALS TRIBUNAL (AMENDMENT) BILL (NO. 2) 1994 AND THE INTERPRETATION (AMENDMENT) BILL 1994.

THE A.A.T. AMENDMENT BILL PROVIDES FOR A CODE OF PRACTICE TO SET MINIMUM STANDARDS FOR THE GIVING OF NOTICES OF DECISIONS AND RIGHTS OF REVIEW.

A LARGE NUMBER OF ENACTMENTS CURRENTLY MAKE PROVISION FOR THE NOTIFICATION OF DECISIONS AND RIGHTS OF REVIEW. THESE PROVISIONS WILL BECOME REDUNDANT ON COMMENCEMENT OF THE CODE. THE AMENDMENTS IN THIS BILL WILL REPEAL THOSE PROVISIONS AND PROVIDE THAT NOTICES MUST BE IN ACCORDANCE WITH THE CODE:

I HAVE ALREADY ADVISED THAT THE INTERPRETATION AMENDMENT BILL PROVIDES FOR THE INSERTION OF A DEFINITION OF THE ADMINISTRATIVE APPEALS TRIBUNAL INTO THE INTERPRETATION ACT.

2244

2.

THE CONSEQUENTIAL BILL WHICH I AM NOW INTRODUCING WILL AMEND A LARGE NUMBER OF ENACTMENTS SO THAT THEY ALL CONSISTENTLY REFER TO THE TRIBUNAL BY USING THE PHRASE ADMINISTRATIVE APPEALS TRIBUNAL.

THE BILL ALSO AMENDS THE TAXATION (ADMINISTRATION) ACT 1987 AND THE FREEDOM OF INFORMATION ACT 1989 TO REQUIRE APPLICATION FOR REVIEW OF DECISIONS MADE UNDER THOSE ACTS TO BE LODGED WITHIN THE TIME PERIODS PROVIDED FOR IN THE A.A.T. ACT.

THIS BILL ALSO CONTAINS A NUMBER OF MINOR TECHNICAL AMENDMENTS WHICH ARE OF A HOUSEKEEPING NATURE. THEY ARE EXPLAINED IN THE EXPLANATORY MEMORANDUM.

MADAM SPEAKER, I COMMEND THE BILL TO THE ASSEMBLY.
2245

16 June 1994

APPENDIX 11:
(Incorporated in Hansard on 16 June 1994 at page 2025)

1994

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

CREDIT (AMENDMENT) BILL 1994

PRESENTATION SPEECH

Circulated by authority
of the
Attorney-General
Terry Connolly, MLA
2246

MADAM SPEAKER, I HAVE PLEASURE IN INTRODUCING THE CREDIT (AMENDMENT) BILL WHICH WILL FURTHER IMPROVE CONSUMER PROTECTION IN SEVERAL WAYS.

MADAM SPEAKER, UNDER THIS GOVERNMENT THE AUSTRALIAN CAPITAL TERRITORY HAS BEEN IN THE FOREFRONT IN PROMOTING THE DEVELOPMENT OF UNIFORM CONSUMER LEGISLATION THROUGHOUT AUSTRALIA.

ALTHOUGH THIS PROJECT HAS BEEN A COMPLEX NATIONAL PROJECT AFFECTED BY CHANGES OF GOVERNMENT, THE A.C.T. LED THE WAY IN ENDORSING THE DRAFT UNIFORM CREDIT BILL IN 1992. THE A.C.T. ALSO PLAYED A KEY ROLE IN MAINTAINING A FAIR BALANCE BETWEEN THE CONSUMER'S RIGHT TO PROTECTION AND INDUSTRY'S RIGHT TO TRADE. CERTAIN REFINEMENTS HAVE BEEN MADE TO THE BILL AND ALL STATES AND TERRITORIES NOW AGREE WITH THE POLICY PRINCIPLES OF UNIFORM CREDIT LEGISLATION.

IT IS EXPECTED THAT, AS AGREED BY THE MINISTERIAL COUNCIL OF CONSUMER AFFAIRS (MCCA) UNIFORM LEGISLATION WILL BE INTRODUCED INTO THE QUEENSLAND PARLIAMENT AT THE END OF THIS YEAR AND THEN APPLIED IN THE A.C.T. THROUGH APPROVED LEGISLATION. THE MEASURES CONTAINED IN THIS BILL ARE REQUIRED TO MAINTAIN AN EFFECTIVE LEVEL OF CONSUMER PROTECTION AND INDUSTRY CERTAINTY UNTIL THE NEW UNIFORM CODE IS FULLY OPERATIONAL.

16 June 1994

MADAM SPEAKER, I NOW TURN TO THE DETAILS OF THE BILL -CURRENTLY SECTION 30 OF THE A.C.T. CREDIT ACT RESTRICTS THE OPERATION OF THE ACT TO CREDIT CONTRACTS WHERE THE ANNUAL INTEREST RATE EXCEEDS 14% AND THE AMOUNT FINANCED IS \$20,000 OR LESS. DUE TO A SUBSTANTIAL DROP IN INTEREST RATES AND THE EFFECTS OF INFLATION OVER TIME, MANY CONSUMERS ARE NOW ENTERING INTO CREDIT CONTRACTS WHICH ARE NOT COVERED BY THE ACT AND ARE ACCORDINGLY DENIED US PROTECTION. FOR INSTANCE IN 1984 A NEW CAR COULD BE PURCHASED FOR UNDER \$20,000 AT AN INTEREST RATE OVER AND ABOVE 14%. NOW MOST NEW CARS COST MORE THAN \$20,000 AND THE INTEREST RATE IS UNDER 14%.

UNDER SECTION 266 OF THE CREDIT ACT 1985 THE EXECUTIVE MAY MAKE REGULATIONS THAT ARE NOT INCONSISTENT WITH THIS ACT, PRESCRIBING ALL MATTERS WHICH ARE REQUIRED OR PERMITTED TO BE PRESCRIBED OR WHICH ARE NECESSARY OR CONS TO BE PRESCRIBED FOR CARRYING OUT OR GIVING EFFECT TO THIS ACT.

THE CREDIT (AMENDMENT) REGULATIONS 1994 WILL ENSURE THAT CREDIT CONTRACTS WHOSE INTEREST RATE IS MORE THAN 8% AND WHOSE MONETARY LIMIT IS NO GREATER THAN \$30,000 ARE PROTECTED.

THE SECOND NEW MEASURE, MADAM SPEAKER WILL BE TO PRESCRIBE A CAP ON INTEREST RATES AT 30% FOR ALL CONSUMER CREDIT LOANS. THIS MAY SEEM HIGH AGAINST TODAY'S RATES BUT IT WAS NOT LONG AGO THAT A FINANCE COMPANY ACROSS THE

2248

BORDER WAS CHARGING 108% PER ANNUM UNDER THIS MEASURE, THIS WILL NEVER OCCUR IN THE A.C.T.

THIRDLY, MADAM SPEAKER THE BILL ESTABLISHES A FINANCIAL COUNSELLING TRUST FUND. THE A.C.T. CREDIT TRIBUNAL WILL NOW BE ABLE TO ORDER CREDIT PROVIDERS WHO BREACH THE ACT TO PAY A PENALTY TO A FINANCIAL COUNSELLING TRUST FUND.

THE FINANCIAL COUNSELLING TRUST FUND MONIES WILL BE USED TO ASSIST CONSUMER CREDIT COUNSELLING, CREDIT AND DEBT MANAGEMENT EDUCATION, CONSUMER CREDIT RESEARCH, CONSUMER CREDIT LITIGATION AND OTHER CREDIT-RELATED ACTIVITIES.

MADAM SPEAKER, THE BILL ALSO INCLUDES SOME TECHNICAL AMENDMENTS REQUIRED TO CLARIFY THE LEGISLATION. FIRSTLY, I HAVE ADDRESSED THE CONCERN RAISED BY THE SCRUTINY OF BILLS COMMITTEE TO ENSURE THAT SECTION 241A (WHICH DEALS WITH EXEMPTIONS FROM THE CIVIL PENALTY REGIME) OF THE CREDIT ACT 1985 HAS ITS INTENDED EFFECT AND THAT IT APPLIES TO CONTRACTS MADE AFTER 28 FEBRUARY 1985, THE DATE THE CREDIT ACT 1985 COMMENCED.

FURTHER, THERE IS A TECHNICAL AMENDMENT TO CLARIFY THE MEANING OF THE TERM "FINANCIAL INSTITUTION" WITHIN THE CREDIT ACT SO THAT THE TERM INCLUDES FOREIGN CREDIT UNIONS AND BUILDING SOCIETIES. THE PURPOSE OF THIS AMENDMENT IS TO ENSURE THAT ALL CREDIT UNIONS AND BUILDING SOCIETIES, REGARDLESS OF WHERE THEY ARE FORMED, ARE EXEMPT FROM

2249

16 June 1994

CERTAIN LICENSING AND CONTRACTUAL REQUIREMENTS OF THE CREDIT ACT.

FINALLY, THERE IS AN AMENDMENT TO THE CREDIT ACT TO ALLOW CREDIT PROVIDERS TO BE REIMBURSED FOR FINANCIAL INSTITUTIONS DUTY. VICTORIA, NEW SOUTH WALES AND QUEENSLAND CREDIT LEGISLATION ALLOWS A CREDIT PROVIDER TO PASS ON TO CONS ANY LIABILITY THEY MAY INCUR IN RELATION TO FINANCIAL INSTITUTIONS DUTY.

THE INCLUSION OF FINANCIAL INSTITUTIONS DUTY AS A PERMITTED CHARGE IS CONSISTENT WITH OTHER TYPES OF CHARGES ALREADY PERMITTED BY THE ACT.

MADAM SPEAKER, THE CREDIT (AMENDMENT) BILL FURTHER DEMONSTRATES THIS GOVERNMENTS COMMITMENT TO PROMOTING SOCIAL JUSTICE THROUGH FAIR TRADING IN THE MARKETPLACE. THIS ACHIEVEMENT HAS BEEN RECOGNISED BY THE AUSTRALIAN CONSUMERS ASSOCIATION GIVING THE A.C.T. THE HIGHEST RATING OF ALL CONSUMER AFFAIRS MINISTERS AROUND THE COUNTRY FOR THE SECOND CONSECUTIVE YEAR

MADAM SPEAKER I COMMEND THIS BILL TO THE ASSEMBLY.

2250

APPENDIX 12:
(Incorporated in Hansard on 16 June 1994 at page 2025)

1994
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY
MENTAL HEALTH (TREATMENT AND CARE) BILL 1994
MENTAL HEALTH (CONSEQUENTIAL PROVISIONS) BILL 1994
PRESENTATION SPEECH
Circulated by Authority of the Attorney-General and
Minister for Health

Terry Connolly MLA

2251

16 June 1994

MENTAL HEALTH (TREATMENT AND CARE) BILL 1994
MENTAL HEALTH (CONSEQUENTIAL PROVISIONS) BILL 1994

PRESENTATION SPEECH

MADAM SPEAKER, I SEEK LEAVE TO PRESENT THE MENTAL HEALTH (TREATMENT AND CARE) BILL 1994 AND THE MENTAL HEALTH (CONSEQUENTIAL AMENDMENTS) BILL 1994.

MADAM SPEAKER, ALL MEMBERS OF THE ASSEMBLY WILL BE AWARE THAT THE GOVERNMENT TABLED A DRAFT EXPOSURE VERSION OF THE MENTAL WELFARE BILL IN JUNE 1993 FOR THE PURPOSES OF CONSULTATION AND DISCUSSION. IN SEPTEMBER 1993 THE BILL WAS REFERRED TO THE LEGISLATIVE ASSEMBLY'S STANDING COMMITTEE ON SOCIAL POLICY

THE COMMITTEE CONDUCTED AN EXHAUSTIVE PROCESS OF PUBLIC CONSULTATION AND EXAMINATION OF THE BILL. THE COMMITTEE RECEIVED MANY SUBMISSIONS AND HELD WELL ATTENDED PUBLIC MEETINGS. DUE TO THE DIFFICULT SUBJECT MATTER OF THE LEGISLATION AND THE LEVEL OF COMMUNITY INTEREST, THE COMMITTEE COULD NOT PRESENT ITS REPORT ON THE BILL UNTIL APRIL OF THIS YEAR.

MADAM SPEAKER, I AM VERY PLEASED TO BE ABLE TO SAY THAT THE COMMITTEE HAS UNANIMOUSLY RECOMMENDED THAT THE LEGISLATIVE ASSEMBLY ENACT, AS SOON AS POSSIBLE, LEGISLATION IN THE FORM OF THIS BILL AND THE CRIMES AMENDMENT BILL WHICH I WILL ALSO BE PRESENTING TODAY. THE PRESENTATION OF THESE BILLS REPRESENTS THE GOVERNMENT'S AGREEMENT WITH THE ALL OF THE COMMITTEE'S RECOMMENDATIONS WITH ONE EXCEPTION.

THE COMMITTEE MADE 6 RECOMMENDATIONS - THREE CONCERNING CHANGES TO THE BILL WHICH, THE BILL AS PRESENTED, INCORPORATES AND ONE THAT THE GOVERNMENT HAS NOT AGREED TO WHICH IS THE RENAMING OF THE BILL TO MENTAL DYSFUNCTION (TREATMENT AND CARE) BILL. I RECEIVED STRONG ADVICE FROM THE MENTAL HEALTH ADVISORY COUNCIL THAT THE SUGGESTED NAME WAS NOT APPROPRIATE.

2252

ADDITIONALLY THIS BILL, AND MORE PARTICULARLY THE CONSEQUENTIAL AMENDMENTS BILL THROUGH AMENDMENTS TO THE CHILDREN'S SERVICES ACT 1986, WILL MAKE SPECIAL PROVISION FOR CHILDREN WITH A MENTAL DYSFUNCTION. THE CONSEQUENTIAL PROVISIONS BILL ALSO MAKES NECESSARY AMENDMENTS TO THE COMMUNITY ADVOCATE ACT 1991 TO REFLECT THE COMMUNITY ADVOCATE'S NEW FUNCTIONS AND PROVIDES FOR CONTINUATION OF ARRANGEMENTS, ORDERS AND APPOINTMENTS UNDER THE REPEALED MENTAL HEALTH ACT 1983. IT ALSO BRINGS THOSE PERSONS PRESENTLY IN CUSTODY AS FORENSIC DETAINEES WITHIN THE NEW LEGISLATIVE ARRANGEMENTS.

THE COMMITTEE MADE 2 RECOMMENDATIONS IN RESPECT OF NONLEGISLATIVE MATTERS. THE FIRST WAS THAT THE GOVERNMENT CONTINUE TO ADDRESS THE NEED FOR SERVICES FOR PEOPLE WITH A MENTAL DYSFUNCTION AS A MATTER OF URGENCY AND NOTED THE NEED FOR MORE ACUTE BEDS FOR PEOPLE WITH A MENTAL ILLNESS AND SERVICES FOR CHILDREN AND ADOLESCENTS REQUIRING PSYCHIATRIC INTERVENTION.

MADAM SPEAKER, THIS GOVERNMENT IS COMMITTED TO PROVIDING NECESSARY SERVICES AND THE PROVISION OF AND NEED FOR ADDITIONAL SERVICES WILL BE MONITORED.

THE SECOND NON-LEGISLATIVE RECOMMENDATION WAS THAT FOR THE DURATION OF THE LEGISLATION (GIVEN THE SUNSET CLAUSE) A FORMAL MONITORING MECHANISM BE ESTABLISHED WHEREBY GOVERNMENT REPORTS TO THE COMMITTEE EVERY SIX MONTHS ON THE NEED FOR AND PROVISIONS OF SERVICES, INCLUDING LEGAL SERVICES, FOR PEOPLE WITH A MENTAL DYSFUNCTION. THE GOVERNMENT IS HAPPY TO PROVIDE THE NECESSARY INFORMATION TO THE COMMITTEE.

THE BILLS PRESENTED TO THE ASSEMBLY TODAY REPRESENT A VERY IMPORTANT MILESTONE IN THE TERRITORY'S TREATMENT AND CARE OF ITS MENTALLY DYSFUNCTIONAL CITIZENS. IT PROVIDES NEW PROCEDURES AND NEW SAFEGUARDS. IT PROVIDES FOR FORMAL DIVERSION OF MENTALLY DYSFUNCTIONAL PERSONS FROM THE CRIMINAL JUSTICE SYSTEM. IT PROVIDES FOR AN ENHANCED ROLE FOR THE COMMUNITY ADVOCATE AND MORE FLEXIBLE USE OF TREATMENT AND CARE FACILITIES. ONE OF ITS MAIN AIMS IS TO AVOID THE UNFORTUNATE PAST PRACTICES OF

2253

16 June 1994

PERSONS IN NEED OF ASSISTANCE FALLING BETWEEN THE RESPONSIBILITIES OF THE VARIOUS AGENCIES AND BEING LEFT WITHOUT HELP OR ASSISTANCE.

MADAM SPEAKER I WOULD LIKE TO THANK THE SOCIAL POLICY COMMITTEE FOR ITS DELIBERATIONS AND ITS REPORT ON THIS VERY IMPORTANT ISSUE. I PARTICULARLY THANK THE CHAIR, MS ELLIS, FOR HER SIGNIFICANT CONTRIBUTION. I BELIEVE THAT IT HAS RENDERED A GREAT SERVICE TO THE PEOPLE OF THE TERRITORY.

I AM PARTICULARLY PLEASED THAT THE COMMITTEE WAS ABLE TO PRODUCE A UNANIMOUS REPORT ON THIS ESSENTIAL ISSUE. THE COMMITTEE WAS MINDFUL OF THE SIGNIFICANT DEBATE GOING ON AROUND AUSTRALIA ON MENTAL HEALTH ISSUES AND PROPOSALS FOR NATIONAL LEGISLATION. FOR THESE REASONS IT RECOMMENDED A SUNSET CLAUSE IN THE BILL. THE GOVERNMENT ACCEPTED THIS PROPOSAL. I WOULD ANTICIPATE THAT THE NEXT ASSEMBLY WILL WISH TO EXAMINE THE OPERATION OF THE NEW LAWS WITH A VIEW TO PROVIDING THE GOVERNMENT OF THE DAY WITH A CONSIDERED VIEW ON THE EFFECTIVENESS OF THESE REFORMS. THIS WILL BE A GOOD THING AS MAJOR REFORMS SUCH AS THIS DESERVE FULL ASSEMBLY SCRUTINY. IF A FUTURE COMMITTEE APPROACHES ITS TASK IN THE SAME SPIRIT AS THIS COMMITTEE, THE PUBLIC CAN HAVE CONFIDENCE THAT THIS LAW, WHICH REPRESENTS A SIGNIFICANT IMPROVEMENT ON THE EXISTING LAW, WILL BE FURTHER IMPROVED AFTER ITS INITIAL PERIOD OF OPERATION.

I COMMEND THE BILLS TO THE ASSEMBLY.

2254

APPENDIX 13:

(Incorporated in Hansard on 16 June 1994 at page 2026)

1994
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY -
CRIMES (AMENDMENT) BILL 1994

PRESENTATION SPEECH
Circulated by Authority of the Attorney General

Terry Connolly MLA

2255

16 June 1994

CRIMES (AMENDMENT) BILL 1994
PRESENTATION SPEECH

MADAM SPEAKER, I SEEK LEAVE TO PRESENT THE CRIMES
(AMENDMENT) BILL 1994.

THIS BILL COMPLEMENTS THE MENTAL HEALTH (TREATMENT AND CARE) BILL 1994 WHICH IS ALSO BEING INTRODUCED IN ACCORDANCE WITH THE RECOMMENDATIONS OF THE STANDING COMMITTEE ON SOCIAL POLICY WHICH REPORTED ON THE THE MENTAL WELFARE AND CRIMES (AMENDMENT) EXPOSURE DRAFT BILLS IN APRIL THIS YEAR. THE MENTAL HEALTH TRIBUNAL ESTABLISHED BY THAT BILL WILL HAVE AN IMPORTANT ROLE TO PLAY IN RELATION TO MENTALLY DYSFUNCTIONAL PEOPLE WHO COME INTO CONTACT WITH THE CRIMINAL JUSTICE SYSTEM.

IT HAS BEEN CLEAR FOR MANY YEARS THAT SOME MENTALLY DYSFUNCTIONAL PEOPLE ARE INAPPROPRIATELY CAUGHT UP IN THE CRIMINAL JUSTICE SYSTEM. THE PROVISIONS OF THE MENTAL HEALTH (TREATMENT AND CARE) BILL WILL ALLOW POLICE OR THE DIRECTOR OF PUBLIC PROSECUTIONS TO REFER PEOPLE TO THE TRIBUNAL TO DETERMINE THE BEST COURSE OF ACTION FOR PERSONS WHO APPEAR TO BE MENTALLY DYSFUNCTIONAL.

2256

2

THE TRIBUNAL WILL HAVE APPROPRIATE POWERS TO ASSESS THESE PEOPLE AND MAKE ORDERS FOR THEIR WELFARE. WE HOPE TO ENSURE THAT PEOPLE WILL NOT BECOME ENTANGLED IN THE CRIMINAL JUSTICE SYSTEM IF THEIR NEEDS COULD BE -MORE PROPERLY ADDRESSED WITHIN THE MENTAL HEALTH SYSTEM.

THE CRIMES (AMENDMENT) BILL WILL AMEND THE CRIMES ACT TO PROVIDE FOR THE COURTS TO REFER A MENTALLY DYSFUNCTIONAL PERSON TO THE TRIBUNAL IN CERTAIN CIRCUMSTANCES.

AT PRESENT IF A MENTALLY DYSFUNCTIONAL PERSON COMES INTO CONTACT WITH THE COURTS IT WILL USUALLY BE THE MAGISTRATES COURT IN RELATION TO A SUMMARY OFFENCE. A MAGISTRATE MAY CONCLUDE THAT, HAVING REGARD TO THE PERSON'S MENTAL DYSFUNCTION AND THE MINOR NATURE OF THE ALLEGED OFFENCE, IT IS APPROPRIATE THAT THE CHARGE BE DISMISSED AND THE PERSON BE REFERRED TO THE MENTAL HEALTH AUTHORITIES.

THE BILL CONFERS THE POWER TO MAKE SUCH ORDERS ON MAGISTRATES AND ENSURES THEY RETAIN THE FLEXIBILITY TO MAKE OTHER APPROPRIATE ORDERS IN THESE CASES. MAGISTRATES WILL BE ABLE TO SEEK ADVICE FROM THE TRIBUNAL AS TO WHETHER A PERSON IS MENTALLY DYSFUNCTIONAL AND RECOMMENDATIONS AS TO HOW THE PERSON SHOULD BE DEALT WITH. THE MAGISTRATES COURT WILL BE ABLE TO REFER MENTALLY DYSFUNCTIONAL PERSONS

2257

WHO HAVE BEEN CONVICTED OF A SUMMARY OFFENCE TO THE TRIBUNAL FOR THE MAKING OF A MENTAL HEALTH ORDER. THE BILL ALSO CONTAINS SIGNIFICANT NEW PROVISIONS RELATING TO MENTALLY DYSFUNCTIONAL PERSONS COMMITTED FOR TRIAL IN THE SUPREME COURT FOR INDICTABLE OFFENCES. IN FUTURE THE SUPREME COURT WILL REFER A MENTALLY DYSFUNCTIONAL PERSON TO THE TRIBUNAL

- FOR A DETERMINATION AS TO WHETHER THE PERSON IS FIT TO PLEAD TO A CHARGE FOR AN OFFENCE;
- FOR ADVICE ON THE SENTENCING OF THE PERSON IF HE OR SHE IS FOUND GUILTY OF THE OFFENCE;
- FOR ADVICE ON HOW THE COURT SHOULD DEAL WITH THE PERSON IF HE OR SHE IS FOUND NOT GUILTY OF THE OFFENCE ON THE GROUND OF MENTAL ILLNESS, - FOR FOR THE TRIBUNAL TO MAKE MENTAL HEALTH ORDERS FOR THE PERSON IF IMPRISONING THE PERSON WOULD BE INAPPROPRIATE.

THE TRIBUNAL WILL HAVE THE IMPORTANT FUNCTION OF ASSISTING THE COURTS BY MAKING DETERMINATIONS AS TO FITNESS TO PLEAD. THE BILL IS BASED ON THE VIEW THAT A FUNCTION OF THIS KIND, INVOLVING AS IT DOES COMPLEX QUESTIONS ABOUT THE PERSON'S MENTAL CAPACITY, IS BEST DETERMINED BY AN EXPERT BODY LIKE THE TRIBUNAL.

2258

4

THE BILL ALSO INVOLVES A MAJOR CHANGE TO THE LAW IN RELATION TO THE DEFENCE OF INSANITY. THE BILL INTRODUCES A STATUTORY VERSION OF THIS DEFENCE. THIS WILL ALLOW A BROADER RANGE OF PEOPLE TO USE THE DEFENCE, AND UPDATES THE LAW IN THIS AREA.

AT PRESENT, PERSONS WHO ARE FOUND NOT GUILTY OF INDICTABLE OFFENCES ON THE GROUNDS OF MENTAL ILLNESS ARE DETAINED INDEFINITELY AT THE GOVERNOR-GENERAL'S PLEASURE. THIS BILL WILL GIVE THE COURT DISCRETION AS TO WHAT IS THE MOST APPROPRIATE OPTION FOR THESE INDIVIDUALS. THE COURT WILL HAVE THE POWER TO SEND A PERSON TO THE NEW TRIBUNAL SO THAT THEY MAY RECEIVE APPROPRIATE TREATMENT AND CARE. IN SOME CASES THEY WILL STILL BE DETAINED IN CUSTODY BUT IN FUTURE THE MENTAL HEALTH TRIBUNAL WILL HAVE THE FUNCTION OF REVIEWING THE CASES OF THESE PEOPLE ON A SIX MONTHLY BASIS AND DETERMINING WHETHER THEY SHOULD BE RELEASED.

THE MENTAL HEALTH (TREATMENT AND CARE) BILL SETS OUT THE FACTORS TO BE CONSIDERED BY THE TRIBUNAL IN CARRYING OUT THIS FUNCTION WHICH WILL INCLUDE THE NATURE OF THE OFFENCE, THE NATURE OF THE PERSON'S MENTAL DYSFUNCTION AND WHETHER THE PERSON IS A DANGER TO THE COMMUNITY. AN IMPORTANT PROVISION OF THE BILL IS THAT THERE IS TO BE A LIMIT ON DETENTION SO THAT A PERSON WHO SUFFERS FROM

2259

16 June 1994

5

MENTAL DYSFUNCTION CANNOT BE DETAINED FOR A LONGER PERIOD THAN THEY WOULD HAVE BEEN IF THEY HAD BEEN CONVICTED OF THE RELEVANT OFFENCE IN NORMAL CRIMINAL PROCEEDINGS.

MADAM SPEAKER, I COMMEND THE CRIMES (AMENDMENT) BILL TO THE ASSEMBLY.

2260

APPENDIX 14:
(Incorporated in Hansard on 16 June 1994 at page 2027)

1994
THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL

TERRITORY
COMMERCIAL AND TENANCY TRIBUNAL BILL 1994
PRESENTATION SPEECH
Circulated by the authority of the Attorney General

Terry Connolly MLA

7

2261

16 June 1994

PRESENTATION SPEECH

COMMERCIAL AND TENANCY TRIBUNAL BILL 1994

MADAM SPEAKER I PRESENT THE COMMERCIAL AND TENANCY TRIBUNAL BILL 1994.

AS MEMBERS WOULD BE AWARE, THIS GOVERNMENT HAS BEEN ACTIVELY ATTEMPTING TO RESOLVE CONCERNS ABOUT THE IMBALANCE OF MARKET POWER IN THE AREA OF RETAIL AND COMMERCIAL TENANCIES.

THE NUMBER OF COMPLAINTS TO THE CONSUMER AFFAIRS BUREAU CONCERNING BUSINESS LEASES, AND THE CONDUCT WHICH THE BUREAU HAS IDENTIFIED, SUPPORT CLAIMS ABOUT AN IMBALANCE IN THE MARKET, WHICH IS OPEN TO EXPLOITATION, PRIMARILY TO THE DISADVANTAGE OF TENANTS.

WHILE THE GOVERNMENT RECOGNISES THAT MANY COMMERCIAL AND RETAIL LANDLORDS AND TENANTS ENJOY GOOD BUSINESS RELATIONSHIPS WHICH ARE NOT MARRED BY LEASES WHICH UNDULY FAVOUR EITHER PARTY, THE EVIDENCE IS THAT THERE REMAINS A SIGNIFICANT NUMBER OF COMMERCIAL AND RETAIL TENANCY ARRANGEMENTS WHICH LEAVE TENANTS, IN PARTICULAR, VERY VULNERABLE.

THE HIGH PERCENTAGE OF RETAIL OUTLETS SITUATED IN LARGE SHOPPING CENTRES, WHICH IS A PARTICULAR CHARACTERISTIC OF

2262

2

THE A.C.T. RETAIL MARKET, HAS COMPOUNDED THE PROBLEMS OF TERRITORY RETAIL TENANTS. IN OTHER RETAIL MARKETS THERE IS A GREATER DIVERSITY OF RETAIL SITES, INCLUDING MANY MORE "STREET FRONT" SITES, GIVING TENANTS SOME ADDITIONAL BARGAINING POWER AND OPTIONS OTHER THAN LOCATION IN ONE OF THE LARGE REGIONAL SHOPPING CENTRES.

HOWEVER, THE PROBLEM OF AN IMBALANCE BETWEEN BARGAINING POWERS OF COMMERCIAL AND RETAIL LANDLORDS AND TENANTS IS BY NO MEANS UNIQUE TO THE A.C.T. IT IS A PROBLEM WHICH OTHER AUSTRALIAN JURISDICTIONS, INCLUDING MOST RECENTLY NEW SOUTH WALES, HAVE ACKNOWLEDGED AND ADDRESSED BY ENACTING LEGISLATION TO PROHIBIT THE OPERATION OF UNFAIR PROVISIONS IN RETAIL LEASES AND TO PROVIDE TENANTS WITH REMEDIES AND PROTECTION FROM THE OPERATION OF PARTICULARLY HARSH TERMS AND CONDITIONS IN SUCH LEASES.

MEMBERS WOULD BE AWARE THAT THE GOVERNMENT INITIALLY SOUGHT, RATHER THAN TO LEGISLATE, TO WORK IN CONSULTATION WITH REPRESENTATIVES OF LANDLORD AND TENANT GROUPS TO DEVELOP A CODE OF PRACTICE ACCEPTABLE TO ALL PARTIES. IT WAS INTENDED THAT SUCH A CODE WOULD BE ADOPTED AND COMPLIED WITH ON A VOLUNTARY BASIS.

UNFORTUNATELY, IN SPITE OF THE CONSIDERABLE TIME AND EFFORT EXPENDED IN ATTEMPTING TO ARRIVE AT A VOLUNTARY CODE WITH WHICH ALL THE PARTIES COULD COMPLY, IT HAS NOT BEEN POSSIBLE TO REACH UNANIMOUS AGREEMENT.

4

2263

16 June 1994

3

FOR THAT REASON, IN APRIL THIS YEAR, I ADVISED OF THE GOVERNMENT'S INTENTION TO DEVELOP A CODE, IN CONSULTATION WITH THE RELEVANT PARTIES, WHICH WOULD BE APPROVED AND ENFORCED UNDER LEGISLATION.

THIS BILL AND THE DRAFT COMMERCIAL AND RETAIL CODE OF PRACTICE WHICH I NOW SEEK LEAVE TO TABLE GIVE EFFECT TO THAT COMMITMENT.

AT THIS POINT I SHOULD EMPHASISE TO THE ASSEMBLY THAT THE CODE WHICH I AM TABLING TODAY IS A DRAFT CODE, WHICH IS STILL THE SUBJECT OF CONSULTATION AND DISCUSSION WITH REPRESENTATIVES OF LANDLORD AND TENANT GROUPS AND MEMBERS OF THE WIDER COMMUNITY (INCLUDING, INDEED, MEMBERS OF THE ASSEMBLY).

WHILE THE DRAFT CODE REMAINS TO BE SETTLED, I AM ABLE TO TELL THE ASSEMBLY THAT IN INITIAL DISCUSSIONS WITH BOTH LANDLORD AND TENANT REPRESENTATIVES A CONSTRUCTIVE DIALOGUE HAS BEEN ACHIEVED AND BOTH GROUPS WILL BE PROVIDING FURTHER DETAILED COMMENTS UPON THE DRAFT.

IN ADDITION, I CAN ADVISE THAT I INTEND, WHILE CONSULTATION ON THE CODE IS CONTINUING, TO DISCUSS WITH THE MOTOR TRADES ASSOCIATION THE EXTENT TO WHICH THE CODE AND, IN PARTICULAR, THE PROVISIONS DEALING WITH KEY MONEY, CAN ASSIST SERVICE STATION OPERATORS IN THE TERRITORY.

2264

4

IT IS THE GOVERNMENT'S INTENTION THAT FURTHER MEETINGS WILL BE HELD BETWEEN NOW AND THE BUDGET SITTINGS OF THE ASSEMBLY, WITH THOSE LANDLORD AND TENANT GROUPS FOR THE PURPOSE OF FINALISING THE CODE. I WOULD BE PLEASED TO ALSO DISCUSS THE PROVISIONS OF THE DRAFT CODE WITH MEMBERS OF THE ASSEMBLY AS I BELIEVE AT THERE IS SCOPE FOR A BI-PARTISAN APPROACH ON THIS MATTER.

I TURN NOW TO DISCUSS SOME ASPECTS OF THE DETAIL OF THE BILL.

THE BILL -

ENABLES THE MINISTER TO APPROVE A CODE OF PRACTICE RELATING TO RETAIL AND COMMERCIAL LEASES; ESTABLISHES A COMMERCIAL AND TENANCY TRIBUNAL WITH JURISDICTION TO HEAR DISPUTES AND GRANT RELIEF CONCERNING LEASES TO WHICH THE BILL APPLIES; AND AS A PRELIMINARY STEP, ESTABLISHES A MEDIATION PROCESS, FOR THE RESOLUTION OF DISPUTES RELATING TO SUCH LEASES.

-THE BILL WILL APPLY TO LEASES FOR PARTICULAR TYPES OF PREMISES, NAMELY

. RETAIL PREMISES, OR ANY PREMISES IN A SHOPPING CENTRE, OTHER THAN PREMISES WHICH HAVE A LETTABLE AREA GREATER THAN 1000 SQUARE METRES AND WHICH ARE LEASED TO A PUBLIC COMPANY (THAT IS, ONE WHICH IS NOT ELIGIBLE TO BE INCORPORATED AS A PROPRIETARY LIMITED COMPANY UNDER THE CORPORATIONS LAW);

2265

16 June 1994

5

SMALL COMMERCIAL PREMISES (WHICH IS DEFINED TO MEAN PREMISES WITH A LETTABLE AREA OF NO MORE THAN 300 SQUARE METRES) OUTSIDE A SHOPPING CENTRE; AND OTHER PREMISES PRESCRIBED BY THE APPROVED CODE.

THE APPLICATION OF THE BILL AND THE CODE TO THESE KINDS OF RETAIL AND COMMERCIAL PREMISES, AND TO PREMISES SITUATED IN A SHOPPING CENTRE, IS ON THE BASIS THAT THESE ARE THE PREMISES WHICH, ON THE EVIDENCE OF COMPLAINTS TO AND INVESTIGATIONS BY THE CONSUMER AFFAIRS BUREAU, REQUIRE THE PROTECTION OF THE BILL AND THE CODE.

THE CONCEPT OF PRESCRIBED PREMISES WILL PERMIT THE APPLICATION OF THE BILL AND THE CODE TO PREMISES WHICH ARE NOT OF A COMMERCIAL OR RETAIL NATURE, FOR EXAMPLE, PREMISES USED FOR COMMUNITY OR NON-PROFIT PURPOSES.

THE BILL ENABLES THE MINISTER BY DISALLOWABLE INSTRUMENT TO APPROVE A CODE OF PRACTICE AND, AS I HAVE ALREADY STATED, IT IS MY INTENTION TO APPROVE, AFTER FURTHER CONSULTATION, A FINAL VERSION OF THE DRAFT CODE WHICH I HAVE TABLED TODAY.

ONE OF THE IMPORTANT ASPECTS OF THE DRAFT CODE IS THAT ITS PROVISIONS ARE PROPOSED TO APPLY ONLY IN RESPECT OF LEASES ENTERED INTO, EXTENDED UNDER AN OPTION, RENEWED OR VARIED ON OR AFTER THE COMMENCEMENT OF THE CODE, WITH TWO EXCEPTIONS.

2266

. 6

FIRST, THE PROVISIONS OF THE CODE DEALING WITH "KEY MONEY" AND "RATCHET CLAUSES" WILL ALSO APPLY IN RESPECT OF EXISTING LEASES, BECAUSE OF THE PARTICULARLY UNFAIR AND ONEROUS NATURE OF SUCH PROVISIONS.

"KEY MONEY" FOR THOSE MEMBERS WHO MAY BE UNFAMILIAR WITH THE TERM, REFERS TO THE PAYMENT BY A TENANT OF A PREMIUM TO ENTER INTO, RENEW, EXTEND OR VARY A CONDITION OF A LEASE. THE MONEY PAID IS NOT RENT, NOR A BOND, NOR MONEY TOWARDS OUTGOINGS OR ANY OF THE OTHER FORMS OF LEGITIMATE PAYMENT TO A LANDLORD IN RESPECT OF SERVICES THE LANDLORD MAY HAVE PROVIDED.

THE TERM "RATCHET CLAUSE" REFERS TO A PROVISION OF A LEASE WHICH PROVIDES FOR ADJUSTMENTS TO RENT TO BE IN ACCORDANCE WITH WHICHEVER OF TWO OR MORE METHODS OF CALCULATING A CHANGE TO THE RENT WILL RESULT IN THE HIGHEST RENT.

THE BILL WILL APPLY THOSE PROVISIONS OF THE CODE DEALING WITH KEY MONEY AND RATCHET CLAUSES TO ALL LEASES BUT THE PROVISIONS WILL ONLY APPLY IN RESPECT OF CONDUCT, FOR EXAMPLE, AN ATTEMPT TO ENFORCE SUCH A CLAUSE, OCCURRING ON OR AFTER THE SUBSTANTIVE COMMENCEMENT OF THE CODE.

SECOND, IN CASES OF "HARSH AND OPPRESSIVE" CONDUCT, WHICH IS PROHIBITED BY THE CODE, THE BILL WILL APPLY TO EXISTING LEASES, BUT ONLY WHERE THE CONDUCT OCCURS ON OR AFTER THE SUBSTANTIVE COMMENCEMENT OF THE CODE.

2267

16 June 1994

THE INCLUSION OF SUCH PROVISION IN THE BILL IS TO ENABLE RELIEF TO BE GRANTED BY THE TRIBUNAL IN CIRCUMSTANCES WHICH WOULD NOT SATISFY THE TRADITIONAL TEST OF UNCONSCIONABILITY (WHEN A WEAKER PARTY IN A POSITION OF SPECIAL DISABILITY IS TAKEN ADVANTAGE OF BY A STRONGER PARTY WHO KNOWS ABOUT THE DISABILITY) BUT WHICH, NONETHELESS, PRODUCE A HARSH AND OPPRESSIVE OUTCOME, THAT IS, AN OUTCOME WHICH RESULTS IN A REAL DETRIMENT TO THE PERSON WHO IS THE OBJECT OF THE CONDUCT.

THE BILL ENABLES THE REFERRAL OF A DISPUTE ABOUT A LEASE TO THE REGISTRAR OF THE TRIBUNAL. THE REGISTRAR WILL BE ABLE TO FACILITATE RESOLUTION OF THE DISPUTE, INFORMALLY, PRIOR TO THE COMMENCEMENT OF ANY MEDIATION PROCESS.

THIS IS AN IMPORTANT FEATURE OF THE LEGISLATION, WHICH IT IS ANTICIPATED WILL KEEP COSTS DOWN. THIS TYPE OF INFORMAL MEDIATION IS SOMETHING WHICH, I AM ADVISED, IS VERY SUCCESSFUL ELSEWHERE. IN QUEENSLAND, IN PARTICULAR, IT HAS RESULTED IN ALL BUT 80 OUT OF THE 2000 DISPUTES REFERRED TO THE REGISTRAR EACH YEAR BEING RESOLVED BEFORE FORMAL MEDIATION EVEN GETS UNDERWAY.

IF INFORMAL RESOLUTION OF A DISPUTE IS NOT POSSIBLE, THE REGISTRAR MAY, GENERALLY, REFER THE DISPUTE TO AN APPROVED MEDIATOR, HEAR THE DISPUTE HIMSELF OR HERSELF OR REFER THE DISPUTE DIRECTLY TO THE TRIBUNAL. IN DETERMINING WHICH OF THESE OPTIONS IS CHOSEN IT IS INTENDED THAT THE REGISTRAR

r

2268

8

WILL HAVE REGARD TO A RANGE OF MATTERS INCLUDING THE NATURE AND COMPLEXITY OF THE DISPUTE, THE AMOUNT OF MONEY (IF ANY) INVOLVED, AND THE LIKELIHOOD OF RESOLUTION OF THE DISPUTE THROUGH MEDIATION.

IN CERTAIN CIRCUMSTANCES THE BILL REQUIRES THAT A DISPUTE MUST BE REFERRED DIRECTLY TO THE TRIBUNAL, SUCH AS WHERE THE DISPUTE ARISES FROM AN ALLEGED BREACH OF A PREVIOUSLY MEDIATED AGREEMENT OR WHERE THE DISPUTE CONCERNED IS ONE REQUIRED BY THE CODE TO BE DETERMINED BY THE TRIBUNAL.

WHERE AN ATTEMPTED MEDIATION FAILS THE DISPUTE IS ALSO REQUIRED TO BE REFERRED TO THE TRIBUNAL.

THE TRIBUNAL ESTABLISHED BY THE BILL IS TO BE CONSTITUTED BY EITHER THE PRESIDENT, WHO WILL BE A MAGISTRATE, SITTING ALONE, OR THE PRESIDENT AND 2 OTHER MEMBERS - ONE A REPRESENTATIVE OF TENANT INTERESTS, THE OTHER A REPRESENTATIVE OF LANDLORD INTERESTS. THE TENANT AND LANDLORD REPRESENTATIVES WILL BE DRAWN FROM 2 POOLS OF SUITABLY QUALIFIED AND EXPERIENCED PEOPLE, AND WILL BE CALLED UPON WHERE THE PRESIDENT OF THE TRIBUNAL CONSIDERS THAT IT WOULD BE OF ASSISTANCE IN THE PARTICULAR HEARING TO HAVE THE BENEFIT OF THE EXPERIENCE OF SUCH MEMBERS.

THE TRIBUNAL IS GIVEN THE POWER, SUBJECT TO THE BILL AND THE CODE, TO MAKE SUCH ORDERS AS IT WOULD BE WITHIN THE JURISDICTION OF THE MAGISTRATES COURT TO MAKE PURSUANT TO THE MAGISTRATES COURT (CIVIL JURISDICTION) ACT 7992. IN

2269

16 June 1994

9

ADDITION, THE TRIBUNAL IS GIVEN POWER TO MAKE SUCH ORDERS AS ARE NECESSARY TO ENFORCE THE CODE AND A SPECIFIC POWER, WHERE THE TRIBUNAL IS HEARING A DISPUTE ALLEGING HARSH AND OPPRESSIVE CONDUCT, TO REOPEN THE RELEVANT LEASE, VARY PROVISIONS OF THE LEASE, SUBSTITUTE ALTERNATIVE PROVISIONS OR SET ASIDE THE LEASE.

THE TRIBUNAL IS ALSO ENDOWED WITH POWER TO ENFORCE ITS ORDERS, INCLUDING ORDERS OF THE PRESIDENT REQUIRING A WITNESS TO PROVIDE EVIDENCE.

APPEALS AGAINST DECISIONS OF THE TRIBUNAL, ON A QUESTION OF LAW, MAY BE TAKEN TO THE SUPREME COURT.

WHERE A DISPUTE RELATES TO A MATTER NOT COVERED BY THE CODE, JURISDICTION TO HEAR SUCH A DISPUTE HAS BEEN TRANSFERRED FROM THE MAGISTRATES COURT TO THE TRIBUNAL. ACCORDINGLY, THE TRIBUNAL WILL BE ABLE TO HEAR DISPUTES CONCERNING LEASES WHICH HAVE BEEN ENTERED INTO BEFORE THE PASSAGE OF THE BILL. HOWEVER, THE BILL REQUIRES THAT SUCH DISPUTES BE HANDLED IN ACCORDANCE WITH THE MEDIATION PROCESS WHICH I HAVE OUTLINED.

IT SHOULD BE NOTED THAT SOME PROVISIONS OF THE BILL MAY REQUIRE AMENDMENT, PRIOR TO CONSIDERATION OF THE BILL BY THE ASSEMBLY, ARISING OUT OF CHANGES TO THE CODE, OR SUGGESTED CHANGES TO THE BILL, FOLLOWING THE CONSULTATION PROCESS I HAVE OUTLINED.

2270

10

THE PROCESS OF DEVELOPING THE CODE OF PRACTICE AND THIS LEGISLATION HAS BEEN ONE IN WHICH THE GOVERNMENT HAS SOUGHT AND ENCOURAGED THE PARTICIPATION OF TENANTS AND LANDLORDS.

WHILE THE ADOPTION OF A VOLUNTARY CODE WOULD HAVE BEEN THE GOVERNMENT'S PREFERENCE, THE GOVERNMENT BELIEVES THAT THE TIME HAS NOW COME TO ACT TO ENSURE THAT THE TERRITORY RETAIL AND COMMERCIAL TENANCY MARKET IS RENDERED MORE EQUITABLE.

THIS BILL, AND THE DRAFT CODE, WHICH AS I HAVE SAID, IS THE SUBJECT OF CONTINUING CONSULTATION, WILL ACHIEVE THAT OBJECTIVE.

I COMMEND THE BILL TO THE ASSEMBLY.

2271

16 June 1994

APPENDIX 15:

(Incorporated in Hansard on 16 June 1994 at page 2027)
1994

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

LANDS ACQUISITION BILL 1994

PRESENTATION SPEECH

Circulated by Authority of

Bill Wood MLA

Minister for the Environment, Land and Planning

2272

PRESENTATION SPEECH

LANDS ACQUISITION BILL 1994

MADAM SPEAKER, IN SEPTEMBER LAST YEAR I RELEASED FOR PUBLIC COMMENT AN EXPOSURE DRAFT OF THE LANDS ACQUISITION BILL.

THE BILL WAS DEVELOPED TO PROVIDE THE TERRITORY WITH THE ABILITY TO COMPULSORILY ACQUIRE LAND, IF THAT WAS NECESSARY, TO GIVE EFFECT TO ITS POLICIES AND OBJECTIVES. AT THE SAME TIME, THERE IS A NEED TO PUT IN PLACE PROCEDURES THAT PROTECT THE CONCERNS AND INTERESTS OF PROPERTY OWNERS WHOSE LAND MAY BE ACQUIRED COMPULSORILY BY THE TERRITORY. A BALANCE HAD TO BE STRUCK BETWEEN PROTECTING THE RIGHTS OF INDIVIDUALS AND ENABLING THE TERRITORY TO MEET ITS PROGRAM OBJECTIVES.

A NUMBER OF ORGANISATIONS AND INDIVIDUALS COMMENTED ON THE DRAFT BILL. I WOULD LIKE TO THANK THOSE INVOLVED FOR THEIR SUBMISSIONS. I AM PLEASED TO ADVISE THAT THE GENERAL THRUST OF THE LEGISLATION WAS SUPPORTED BUT I WOULD LIKE TO ADDRESS A NUMBER OF SPECIFIC CONCERNS RAISED IN THE SUBMISSIONS.

THE QUESTION OF COMPATIBILITY WITH SIMILAR NEW SOUTH WALES LEGISLATION WAS AN ISSUE. IT WAS CONSIDERED THAT NEW SOUTH WALES PRINCIPLES FOR DETERMINING COMPENSATION WERE BROADER. HOWEVER, THE NEW SOUTH WALES LEGISLATION SETS IN PLACE PROCEDURES AND PRACTICES DEVELOPED OVER TIME IN THAT STATE. IT ALSO REFLECTS THE DIFFERENT LAND SYSTEMS THAT OPERATE IN NEW SOUTH WALES WHICH DO NOT APPROXIMATE THOSE WE HAVE IN THE TERRITORY.

THE BILL IS MODELLED CLOSELY ON THE COMMONWEALTH LANDS ACQUISITION ACT 1989, WHICH WAS DEVELOPED ON PRINCIPLES THAT HAVE EVOLVED THROUGH THE COURTS AND PRACTICE. THEY ARE APPLICABLE TO THE TERRITORY, ESPECIALLY GIVEN ITS CLOSE

RELATIONSHIP WITH THE COMMONWEALTH. IT SEEMS SENSIBLE TO HAVE A LANDS ACQUISITION PROCESS IN PLACE IN THE TERRITORY THAT IS CONSISTENT WITH THAT OF THE COMMONWEALTH.

HOWEVER, ASPECTS OF THE BILL HAVE BEEN CHANGED TO REFLECT THE NEW SOUTH WALES LEGISLATION. FOR INSTANCE, IN NEW SOUTH WALES, SOLATIUM IS SET AT \$15,000. SOLATIUM IS INTENDED TO COMPENSATE THE PROPERTY OWNER FOR THE HARDSHIP, INCONVENIENCE OR UNSPECIFIED LOSS DUE TO THE ACQUISITION OF THE LAND. THE AMOUNT IN THE EXPOSURE DRAFT OF THE BILL, \$10,000, HAS BEEN AMENDED SO THAT SOLATIUM IS SET AT \$15,000 IN THE BILL I AM PRESENTING HERE.

SEVERAL SUBMISSIONS ALSO RAISED CONCERNS ABOUT THE POWER BEING CONFERRED ON THE EXECUTIVE. THE ACQUISITION OF LAND, ESPECIALLY WHEN IT IS DONE COMPULSORILY, IS AN EXTREME STEP TO TAKE. THE BILL GOES INTO SOME DETAIL ABOUT THE PROTECTION OF INTERESTS. PERSONS HAVE TO BE NOTIFIED ABOUT THE ACQUISITION OF PROPERTY, COMPENSATION HAS TO BE OFFERED AND THERE ARE APPEAL RIGHTS WHERE A PERSON IS DISSATISFIED WITH A DECISION. I BELIEVE THE CONCERNS OVER THE POWER OF THE EXECUTIVE HAVE BEEN PROPERLY ADDRESSED IN THE BILL

MADAM SPEAKER, THE LANDS ACQUISITION BILL IS DERIVED FROM A NUMBER OF PRINCIPLES INCLUDING:

OPENNESS IN THE ACQUISITION OF LAND;

ACCOUNTABILITY OF DECISIONS TO ACQUIRE LAND;

STATUTORY COMPENSATION PROVISIONS; AND

COMPLETING THE PROCESS OF ACQUISITION EXPEDITIOUSLY.

RATHER THAN GIVE MEMBERS A DETAILED EXPLANATION OF THE BILL I WOULD PREFER TO TALK IN GENERAL TERMS ABOUT THE LEGISLATION, HOW IT REFLECTS THESE PRINCIPLES AND ADDRESS SOME PARTICULAR ISSUES.

OPENNESS AND PUBLIC ACCOUNTABILITY IS MET IN PART BY THE LEGISLATION SETTING OUT THE PROCEDURES TO BE FOLLOWED WHEN ACQUIRING LAND UNDER THE LEGISLATION. OF COURSE, THE

4

TERRITORY CAN ACQUIRE LAND OUTSIDE THIS PROCESS. HOWEVER, IF LAND IS TO BE ACQUIRED BY WAY OF THE BILL THEN THE PROCESSES OF NOTIFICATION OF THE DECISION TO ACQUIRE AND OFFER OF COMPENSATION TO AFFECTED PERSONS MUST BE FOLLOWED.

REVIEW OF DECISIONS IS ANOTHER IMPORTANT ISSUE. THE EXECUTIVE CAN BE ASKED TO REVIEW ITS DECISION TO ACQUIRE. IF A PERSON IS STILL NOT SATISFIED WITH THE OUTCOME OF THE EXECUTIVE'S REVIEW, THIS DECISION MAY BE FURTHER REVIEWED, OTHER THAN WHERE THE INTEREST IS REQUIRED URGENTLY. THAT REVIEW WILL BE CARRIED OUT BY THE ASSEMBLY.

IN THE COMMONWEALTH THE REVIEW IS CARRIED OUT BY THE ADMINISTRATIVE APPEALS TRIBUNAL HOWEVER, THE REVIEW IS LIMITED IN THAT THE POLICY DECISION WHICH LED TO THE DECISION TO ACQUIRE IS NOT SUBJECT TO REVIEW. AS SUCH A REVIEW WILL OFTEN RAISE QUESTIONS OF POLICY, SUCH AS PLANNING CONCERNS WHICH LED TO THE DECISION TO ACQUIRE, IT IS APPROPRIATE THAT THE BODY WHICH AGREED TO THAT POLICY BEING ADOPTED BE ASKED TO REVIEW ITS DECISION. THIS WILL BE ACHIEVED BY MAKING THE DECISION TO ACQUIRE A DISALLOWABLE INSTRUMENT.

COMPENSATION FOR ACQUISITION OF LAND HAS TO BE ON JUST TERMS. THE BILL SEEKS TO ENSURE THAT A PERSON IS NO BETTER OFF AND NO WORSE OFF AS A RESULT OF THE ACQUISITION. THE BILL SEEKS TO ACHIEVE THIS BY PROVIDING OBJECTIVE CRITERIA AGAINST WHICH CLAIMS MAY BE CONSIDERED AND THEN COMPENSATION PAID. REVIEW OF COMPENSATION OFFERED IS ALSO A FEATURE OF THE BILL, ALTHOUGH IN THIS CASE REVIEW WILL BE CARRIED OUT BY THE ADMINISTRATIVE APPEALS TRIBUNAL

THE BILL ALSO IMPOSES TIME CONSTRAINTS ON THE PROCESSING OF APPLICATIONS FOR COMPENSATION. FURTHER, IT ENABLES THE EARLY PAYMENT OF PART OF THE COMPENSATION IF THE PARTIES ARE IN DISAGREEMENT AS TO THE AMOUNT OF COMPENSATION THAT SHOULD BE PAID.

THE BILL RECOGNISES THE DISTINCT NATURE OF THE TERRITORY'S LEASEHOLD SYSTEM. IN SOME INSTANCES IT WILL ENABLE SOME EXISTING LEASING ARRANGEMENTS TO CONTINUE. THERE ARE LEASES

2275

WHICH CONTAIN A WITHDRAWAL CLAUSE', A PROVISION WHICH ENABLES THE TERRITORY TO WITHDRAW LAND FROM A LEASE. IF THESE ARRANGEMENTS SHOULD CONTINUE THEN THE BILL WILL ACCOMMODATE THIS.

I MENTIONED EARLIER THAT THE BILL WILL ENABLE THE GOVERNMENT TO GIVE EFFECT TO ITS POLICIES. THE GOVERNMENT'S RURAL LEASING POLICY SEEKS TO CREATE A VIABLE RURAL INDUSTRY AND TO HAVE RURAL LAND MANAGED IN AN ENVIRONMENTALLY SUSTAINABLE MANNER. THE BILL IS THE KEY TO IMPLEMENTING THIS POLICY AND TO ISSUING LEASES WITH IMPROVED TENURE PROVISIONS.

MEMBERS WILL BE AWARE THAT THE WITHDRAWAL CLAUSE' WAS VERY CONTENTIOUS IN RELATION TO RURAL LEASES. MANY FINANCIAL INSTITUTIONS BELIEVED IT AFFECTED RURAL TENURE AND THEY WOULD NOT LEND MONEY TO RURAL LESSEES ON FAVOURABLE TERMS TO MAINTAIN AND IMPROVE THEIR PROPERTIES. IT IS FAIR TO SAY THAT RURAL LAND SUFFERED AS A RESULT.

IT WOULD HAVE BEEN POSSIBLE TO ADDRESS THIS PROBLEM BY ISSUING LEASES WITHOUT WITHDRAWAL CLAUSES. HOWEVER THERE WAS NO LANDS ACQUISITION LEGISLATION IN PLACE. IN THE EVENT THAT LAND WAS REQUIRED FOR A PUBLIC PURPOSE, THE GOVERNMENT WOULD ONLY HAVE BEEN ABLE TO ACQUIRE THE LAND WITH THE AGREEMENT OF THE LESSEE. HAD THIS NOT BEEN FORTHCOMING THE GOVERNMENT'S OBJECTIVES COULD HAVE BEEN FRUSTRATED.

WITH THE INTRODUCTION OF THIS BILL, THE GOVERNMENT IS PREPARED TO ISSUE RURAL LEASES THAT DO NOT CONTAIN A WITHDRAWAL CLAUSE. I ENCOURAGE RURAL LESSEES TO DISCUSS WITH MY DEPARTMENT THE RENEGOTIATION OF THEIR LEASES TO TAKE FULL ADVANTAGE OF THE LANDS ACQUISITION BILL.

MADAM SPEAKER, THE LANDS ACQUISITION BILL PROVIDES A GENERAL LEGISLATIVE MECHANISM FOR THE ACQUISITION OF LAND, A MECHANISM THAT HAS NOT BEEN AVAILABLE TO THE TERRITORY SINCE THE INTRODUCTION OF SELF-GOVERNMENT. - IT WILL PROVIDE ANOTHER MECHANISM BY WHICH THE GOVERNMENT CAN FULFIL ITS OBJECTIVES WHILE AT THE SAME TIME RECOGNISING THE INTERESTS AND RIGHTS OF THOSE AFFECTED. r

6

I WOULD ALSO LIKE TO ADVISE MEMBERS THAT WHEN THE BILL IS DEBATED I ANTICIPATE MOVING TWO MINOR AMENDMENTS RELATING TO PROCEDURAL MATTERS.

I PRESENT THE EXPLANATORY MEMORANDUM FOR THE BILL.

r

2277

16 June 1994

APPENDIX 16:

(Incorporated in Hansard on 16 June 1994 at page 2028)
1994

AUSTRALIAN CAPITAL TERRITORY

LEGISLATIVE ASSEMBLY

NATURE CONSERVATION (AMENDMENT) BILL 1994

PRESENTATION SPEECH

Circulated by Authority of the Minister for the

Land and Planning

Environment,

Mr Bill Wood MLA

2278

2

MADAM SPEAKER,

THE NATURE CONSERVATION (AMENDMENT) BILL 1994 CONTAINS PROVISIONS THAT WILL GIVE EFFECT TO THE GOVERNMENT'S ELECTION COMMITMENT TO DEVELOP LEGISLATION TO IDENTIFY AND PROTECT ENDANGERED NATIVE PLANTS AND ANIMALS, AND THEIR ECOLOGICAL COMMUNITIES.

THE BILL IS A SIGNIFICANT NATURE CONSERVATION INITIATIVE BY THE GOVERNMENT. THE NATIVE PLANTS AND ANIMALS OF THE A.C.T. ARE PART OF OUR NATURAL HERITAGE - A HERITAGE WITH SUBSTANTIAL CULTURAL, ECONOMIC AND ECOLOGICAL VALUES WHICH IS OUR RESPONSIBILITY TO CONSERVE FOR THE BENEFIT OF FUTURE GENERATIONS.

MADAM SPEAKER, COMMUNITY INVOLVEMENT IN NATURE CONSERVATION IS FUNDAMENTAL TO LONG TERM SUCCESS. IN THIS CONTEXT AN EXPOSURE DRAFT OF THE BILL WAS RELEASED FOR PUBLIC COMMENT IN JUNE 1993 FOLLOWING TABLING OF THE LEGISLATION IN THE LEGISLATIVE ASSEMBLY. SUBMISSIONS RECEIVED WERE CONSTRUCTIVE AND A NUMBER OF AMENDMENTS TO THE BILL HAVE BEEN MADE.

THE BILL COVERS THREE MAIN MATTERS.

FIRSTLY, THERE IS A LISTING PROCESS WHEREBY SPECIES AND ECOLOGICAL COMMUNITIES THAT ARE THREATENED WITH EXTINCTION, OR PROCESSES THAT THREATEN THE VIABILITY OF SPECIES OR COMMUNITIES IN THE WILD ARE FORMALLY DECLARED. SECONDLY, THERE IS A MANAGEMENT RESPONSE TO DECLARATION WHEREBY CONSERVATION MEASURES ARE DETERMINED AND MANAGEMENT ACTIONS CARE FORMULATED. THE THIRD COMPONENT IS THE DEVELOPMENT OF A LONG-TERM CONSERVATION STRATEGY FOR OUR BIOLOGICAL DIVERSITY.

THE BILL'S PROVISIONS ESTABLISH AN EXPERT FLORA AND FAUNA COMMITTEE WHOSE MAIN TASK WILL BE TO PROVIDE INDEPENDENT AND EXPERT ADVICE TO THE GOVERNMENT ON NATURE CONSERVATION MATTERS AND ASSESS THE CONSERVATION STATUS OF THE NATIVE PLANTS AND ANIMALS AND ECOLOGICAL COMMUNITIES OF THE A.C.T. SHOULD THE a
2279

COMMITTEE DETERMINE THAT A SPECIES OR COMMUNITY IS THREATENED, THAT IS, EXTINCTION IS FORESEEN IF THE CIRCUMSTANCES THREATENING ITS WELL-BEING IN THE WILD CONTINUE TO PREVAIL, THEN THE COMMITTEE WOULD ADVISE THE MINISTER ACCORDINGLY WITH A RECOMMENDATION THAT A DECLARATION BE MADE. THE COMMITTEE ALSO WOULD BE RESPONSIBLE FOR ASSESSING THE ECOLOGICAL SIGNIFICANCE OF PROCESSES THAT ARE POTENTIALLY THREATENING TO THE SURVIVAL IN THE WILD OF NATIVE SPECIES AND COMMUNITIES. IF A PROCESS WAS DETERMINED TO BE THREATENING IN THIS SENSE, IT WOULD ADVISE THE MINISTER AND RECOMMEND THAT THE PROCESS BE DECLARED A THREATENING PROCESS.

THE MINISTER WOULD CONSIDER COMMITTEE RECOMMENDATIONS AND COULD DECLARE A SPECIES TO BE EITHER VULNERABLE OR ENDANGERED, DEPENDING ON THE DEGREE OF THREAT, OR DECLARE A COMMUNITY TO BE ENDANGERED, OR DECLARE A PROCESS TO BE A THREATENING PROCESS.

A DECLARATION WOULD BE TABLED IN THE LEGISLATIVE ASSEMBLY BY THE MINISTER AND THE LISTING PROCESS WOULD BE COMPLETE.

DECLARATION WOULD SET IN TRAIN A STATUTORY MANAGEMENT RESPONSE.

FIRSTLY, A SPECIES DECLARED AS ENDANGERED, THAT IS, IN IMMEDIATE DANGER OF EXTINCTION, WOULD HAVE THE MORE STRINGENT PROTECTIVE PROVISIONS OF THE NATURE CONSERVATION ACT APPLY BY ALSO BEING DECLARED TO HAVE SPECIAL PROTECTION STATUS.

SECONDLY, FOR EACH DECLARED ITEM THE CONSERVATOR WOULD BE REQUIRED TO PREPARE AN ACTION PLAN OUTLINING CONSERVATION PROPOSALS IN THE CASE OF A SPECIES OR COMMUNITY, OR IMPACT MITIGATION PROPOSALS IN THE CASE OF A THREATENING PROCESS.

THE BILL ALSO ADDRESSES BROADER OBJECTIVES FOR CONSERVATION OF OUR BIOLOGICAL DIVERSITY BY PROVIDING FOR THE CONSERVATOR OF WILDLIFE TO PREPARE A NATURE CONSERVATION STRATEGY FOR THE A.C.T. THIS DOCUMENT WOULD CONTAIN PROPOSALS FOR ENSURING THE a 2280

4

CONTINUING SURVIVAL IN THE WILD OF THE NATIVE FLORA AND FAUNA OF THE A.C.T., WITH PARTICULAR ATTENTION BEING GIVEN TO THE MANAGEMENT OF POTENTIALLY THREATENING PROCESSES AND THE DEVELOPMENT OF COMMUNITY PROGRAMS TO PROMOTE NATURE CONSERVATION.

MADAM SPEAKER, THE PROVISIONS CONTAINED IN THE BILL RECOGNISE THE IMPORTANCE OF A CONTINUING INVOLVEMENT BY THE COMMUNITY IN ITS IMPLEMENTATION.

THE FLORA AND FAUNA COMMITTEE WOULD SEEK PUBLIC COMMENT ON THE ADMINISTRATIVE GUIDELINES AND SCIENTIFIC CRITERIA THAT IT WOULD BE REQUIRED TO DEVELOP FOR THE ASSESSMENT OF THE CONSERVATION STATUS OF NATIVE PLANTS AND ANIMALS AND THE ECOLOGICAL SIGNIFICANCE OF THREATENING PROCESSES. IT WOULD ALSO ESTABLISH AN EARLY AND CLOSE WORKING RELATIONSHIP WITH THE HERITAGE COUNCIL OF THE A.C.T. AND THE A.C.T. ENVIRONMENT AND CONSERVATION CONSULTATIVE COMMITTEE AS REPRESENTATIVES OF NATURAL HERITAGE AND NATURE CONSERVATION INTERESTS IN THE COMMUNITY.

COMMUNITY PARTICIPATION IN A MANAGEMENT RESPONSE TO DECLARATIONS WOULD BE ENCOURAGED. ACTION PLANS PRODUCED BY THE CONSERVATOR WOULD BE RELEASED AS A DRAFT FOR PUBLIC COMMENT. ALSO, DEVELOPMENT OF THE PROPOSED NATURE CONSERVATION STRATEGY WOULD INVOLVE EXTENSIVE PUBLIC CONSULTATION.

THE PROVISIONS OF THIS BILL ALLOW THE A.C.T. GOVERNMENT TO BE WELL-PLACED TO MEET ITS RESPONSIBILITIES UNDER NATIONAL SCHEMES TO CONSERVE AUSTRALIA'S BIOLOGICAL RESOURCES.

IN PARTICULAR, AS SIGNATORIES TO THE INTERGOVERNMENTAL AGREEMENT ON THE ENVIRONMENT, THE GOVERNMENT WILL ACCEPT CERTAIN OBLIGATIONS IN RELATION TO A NATIONAL STRATEGY FOR THE CONSERVATION OF AUSTRALIA'S ENDANGERED SPECIES AND ECOLOGICAL COMMUNITIES.

2281

16 June 1994

5

MADAM SPEAKER, THE NATURE CONSERVATION (AMENDMENT) BILL 1994
MAKES A SUBSTANTIAL CONTRIBUTION TO CONSERVATION OF OUR
NATURAL HERITAGE AND I COMMEND IT TO YOU.

9

2282

APPENDIX 17:

(Incorporated in Hansard on 16 June 1994 at page 2115)
MINISTERIAL STATEMENT ON

A.C.T. PROGRESS REPORT ON THE IMPLEMENTATION
OF THE ROYAL COMMISSION INTO ABORIGINAL
DEATHS IN CUSTODY

1992-93

To be delivered by:

ROSEMARY FOLLETT MLA CHIEF
MINISTER

4

2283

16 June 1994

2

MINISTERIAL STATEMENT FOR THE ACT 1992-93 PROGRESS REPORT ON THE
IMPLEMENTATION OF THE ROYAL COMMISSION INTO ABORIGINAL DEATHS
IN CUSTODY

PRESENTED BY THE CHIEF MINISTER
ROSEMARY FOLLETT MLA

Today I am pleased to table in the Assembly the ACT Government's first annual progress report on the implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

The tabling of this document demonstrates the substantial progress the ACT Government, together with the Aboriginal and Torres Strait Islander communities, has made already in implementing the recommendations of the Royal Commission in the ACT.

The Royal Commission was established in October 1987 to investigate the number of deaths in custody of Aboriginal peoples and Torres Strait Islanders and the lack of satisfactory public explanations concerning the cause of deaths.

The Commission investigated the deaths of 99 Aboriginal and Torres Strait Islander peoples between 1 January 1980 and 31 May 1989. The Commission not only inquired into how those people died but also why they died. In doing so, it took into account social, cultural and legal factors which may have had some bearing on these deaths.

2284

3

The investigation revealed that the major cause of the high number of deaths in custody was the gross over representation of the Aboriginal and Torres Strait Islander population in police and prison cells. The Commission's report tackled this over representation in two ways: it dealt with the criminal justice system and it dealt with the underlying causes which resulted in Aboriginal peoples and Torres Strait Islanders coming into contact with that system.

The report found that the most significant reason for the high numbers in custody was the socially, economically and culturally disadvantaged and unequal position of Aboriginal peoples and Torres Strait Islanders in our society. To address this problem the report emphasised the need to empower Aboriginal peoples and Torres Strait Islanders and return to them control of their lives and their communities. The Commission made 339 recommendations to Commonwealth, State and Territory governments which address these issues.

The ACT Government, together with the Commonwealth, State (excluding Tasmania) and Northern Territory Governments, released its response to the Commission's recommendations on 31 March 1992.

I tabled the ACT Government response in the Legislative Assembly on 8 April 1992, the first sitting day following the national release. In doing so I commented that this signified a new and challenging era in Aboriginal and Torres Strait Islander relations in the ACT.

2285

16 June 1994

4

In its response, the ACT Government expressed its support for the recommendations and outlined what actions it would take to implement each of the 339 recommendations. The recommendations address issues of empowering Aboriginal peoples and Torres Strait Islanders: policing; custodial facilities and procedures; legislative reform; health; housing; and education. Consequently, the Government's response to the recommendations forms the major policy statement for Aboriginal and Torres Strait Islander affairs in the ACT for the 1990s.

The Commission recommended that Commonwealth, State and Territory governments agree upon a process for reporting on the implementation of the recommendations accepted by governments. On 22 October 1993, the Australian Aboriginal Affairs Council (AAAC) agreed that each jurisdiction would produce a coordinated annual report on their implementation of the Commission's recommendations.

The document being tabled today is the ACT's first implementation progress report. ACT Government agencies are also reporting on the implementation of the Commission's recommendations in their Annual Reports.

I am pleased to be able to say that the ACT Government has made substantial progress towards implementing its commitments in response to the Royal Commission, thereby demonstrating the Government's continuing commitment to improving the economic, social and political conditions of Aboriginal peoples and Torres Strait Islanders.

The International Year of the World's Indigenous People has provided the Government with the opportunity to commence a number of initiatives and to raise the public profile of Aboriginal peoples and Torres Strait Islanders and related issues.

2286

5

Most of the recommendations suggesting amendments to instructions or procedures have been fully implemented. Other recommendations suggesting substantial changes such as legislative amendments have been taken on board and procedures commenced to implement them. These procedures include extensive consultations with the Aboriginal and Torres Strait Islander communities.

EMPOWERMENT

The main theme of the Royal Commission's report was the elimination of disadvantage and the empowerment of Aboriginal peoples and Torres Strait Islanders. Consequently, -a major priority of the ACT Government's implementation has been to encourage the active participation of Aboriginal peoples and Torres Strait Islanders in the decision making process, including the implementation of the Royal Commission's report.

The establishment of the ACT Aboriginal and Torres Strait Islander Advisory Council, which I foreshadowed when I tabled the ACT Government response on 8 April 1992, has been a crucial step in this process. The role of the Advisory Council is to advise me on issues affecting Aboriginal peoples and Torres Strait Islanders. The Council also provides a direct line to the Government through which the Aboriginal and Torres Strait Islander communities in the ACT can raise any concerns. One of the Advisory Council's major tasks is to monitor the implementation of the recommendations of the Royal Commission.

To date the Council has provided the Government with advice on a wide range of matters, including Aboriginal/police relations; legislative reform, corrective services policy, education and languages policies; the development of a keeping place/cultural centre; and initiatives to celebrate the International Year of the World's Indigenous People.

2287

Other ACT Government agencies have set in train procedures incorporating the empowerment principle in the development of policy and programs particularly relevant to Aboriginal peoples and Torres Strait Islanders.

LAW AND JUSTICE

The Government has implemented a number of legislative reforms in accordance with the recommendations of the Royal Commission. Since its formation in March 1993, the Aboriginal and Torres Strait Islander Advisory Council has had a role in commenting on this legislation.

The Bail Act 1992, which clarified and consolidated the law of bail and implemented recommendations on bail procedures, came into effect in November 1992. The Evidence (Amendment) Act 1993 and the Crimes (Amendment) Act 1993 have implemented the Commission's recommendations concerning the use of interpreters in courts. The Crimes (Amendment) Act (No 2) 1993, which implements recommendations on sentencing, gives effect to the principle that imprisonment should be utilised only as a last resort. The Coroners (Amendment) Bill (No 2) 1993 addresses the recommendations in relation to coronial inquests.

The Government has also tabled the Domestic Relationships Bill 1993, which gives effect to most of the recommendations of the Australian Law Reform Commission's Report on Customary Law. Following tabling, the Government has initiated extensive community consultation concerning these bills.

The AFP is currently working in cooperation with the Aboriginal and Torres Strait Islander communities, through the ACT Aboriginal and Torres Strait Islander Advisory Council, to review and restructure the Aboriginal/Police Liaison Committee. This Committee provides a channel of communication between the police and the Aboriginal and Torres Strait Islander communities and a call out service whereby Aboriginal and Torres Strait Islander members of the committee provide support for Aboriginal and Torres Strait Islander community members in custody.

I am pleased to note that the AFP (ACT Region) has brought almost all its instructions and procedures into line with the Royal Commission's recommendations. Work has also commenced and is continuing on upgrading police cells to the standards outlined by the Commission.

ACT Corrective Services and Juvenile Justice have amended and introduced procedures and commenced upgrading their facilities in response to the Royal Commission.

ACT Corrective Services have employed a consultant to develop Aboriginal and Torres Strait Islander employment strategies and non-custodial sentencing options. The consultant's draft report is under consideration. Legislation is being prepared to provide for a wide range of non-custodial sentencing options.

I am pleased to be able to say that the ACT is the only jurisdiction in Australia which provides a bail supervision service for young -offenders.

2289

Many of the Commission's recommendations highlighted the need for the collection of better data, particularly regarding aspects of the criminal justice system. In order to address this need, an Integrated Justice Information System is in the process of being developed which will enhance the existing systems and link facilities on a computerised data base. The proposed system will provide data to record the progression of a detainee through the criminal justice system in the ACT, including the self identification of Aboriginality. Funds have been allocated to employ a consultant to identify all relevant requirements, including security and privacy issues.

ABORIGINAL PEOPLES AND TORRES STRAIT ISLANDERS AND AUSTRALIAN SOCIETY

The Royal Commission spoke of the need for a deeper understanding between the Aboriginal and Torres Strait Islander communities and the wider society. The Commission found that non-Aboriginal society needed to change its attitudes towards Aboriginal peoples and Torres Strait Islanders if the inequalities faced by Aboriginal peoples and Torres Strait Islanders were to be addressed. The Commission also recommended that relationships with Aboriginal peoples and Torres Strait Islanders should be based on the principles of selfdetermination.

In response to this need, the ACT Government has established programs to train providers of government services in sensitivity to Aboriginal and Torres Strait Islander culture and to raise public awareness of Aboriginal peoples and Torres Strait Islanders.

9

In the context of the 1992-93 Budget the ACT Government in 1992-93, provided funding to develop and implement a three year training program on diversity and cross cultural awareness for ACT Government Service employees. The Valuing Diversity - ACT Government Service Diversity and Culture Training Project aims to provide managers and client service staff with the knowledge, skills and confidence to manage and work effectively with diverse people and situations and includes a significant emphasis on Aboriginal issues.

Individual agencies have developed training programs appropriate to their specific needs. The ACT Department of Education and Training has implemented in service training programs for school staff in issues involved in Aboriginal education and all ACT Government school principals participated in a Principals' Awareness Program.

The Attorney General's Department has introduced cross cultural awareness training for all staff, including magistrates and other judicial officers. ACT judges will be involved in a regional program aimed at developing better relations between Aboriginal people and the judiciary.

Staff within the Yurauna Centre at the Canberra Institute of Technology have commenced consultation with Aboriginal peoples and Torres Strait Islanders regarding cultural awareness workshops for staff within the Institute. The Department of Urban Services has instituted a series of cultural awareness seminars featuring Aboriginal and Torres Strait Islander culture for staff and the Australian Federal Police has continued to hold Aboriginal cultural awareness training seminars. All these courses have been run by or in consultation with members of the Aboriginal and Torres Strait Islander community.

2291

The ACT Government has also raised public awareness of Aboriginal and Torres Strait Islander culture and issues through the inclusion of Aboriginal perspectives in school curricula; public exhibitions and displays; and special initiatives for the International Year of the World's Indigenous People.

Members will recall that on 16 December 1993 I tabled a Ministerial Statement in the Assembly highlighting the ways in which the ACT Government had celebrated the Year. A number of the initiatives promoted awareness and understanding of issues affecting Aboriginal peoples and Torres Strait Islanders and will serve as lasting reminders of the Year. Among these, the naming of the new ACT Electorates Brindabella, Ginninderra and Molonglo - is an important commemorative initiative. These names were adopted because they are commonly recognised geographic names of Aboriginal origin which are associated with each electorate.

The ACT Human Rights Office has carried out an extensive program of activities in the ACT community, including the Aboriginal and Torres Strait Islander communities, to promote awareness of the anti discrimination legislation administered by the office.

In May 1993 I invited members of the Legislative Assembly to form a Parliamentary Awareness Group to provide a forum which would enable members to inform themselves in a non-partisan manner on issues relating to local Aboriginal peoples and Torres Strait Islanders.

Recent legislation such as the Adoption Act 1993, which includes the Aboriginal Child Placement Principle, and the recently tabled Domestic Relationships Bill 1993, which would give effect to most of the recommendations of the Australian Law Reform Commission's report on Customary Law, recognise unique elements of Aboriginal culture.

In response to submissions from the local Aboriginal and Torres Strait Islander communities, the ACT Government has set aside \$2.5 million for the development of an Aboriginal keeping place/cultural centre. The Government has requested advice from the ACT Aboriginal and Torres Strait Islander Advisory Council on the design, function and management of the centre. The Council is conducting consultations with the community in order to prepare its advice to the Government. Submissions concerning the keeping place/cultural centre envisaged a place that will be a focal point for Aboriginal peoples and Torres Strait Islanders to come together and express and preserve their culture and where non-Aboriginal people can learn- about Aboriginal culture.

The ACT Government is also working to ensure the preservation of Aboriginal heritage in the ACT through legislative protection for Aboriginal sites and objects. The ACT Heritage Council, Cultural Council, and Environment and Conservation Consultative Committee all include Aboriginal representation to ensure that advice to government incorporates Aboriginal interests.

EDUCATION AND YOUNG PEOPLE

The Department of Education and Training has recognised the importance of involving Aboriginal peoples and Torres Strait Islanders in the development and delivery of education to ensure it is both relevant to Aboriginal and Torres Strait Islander students and to teach all students about Aboriginal and Torres Strait Islander history and culture.

Pre service teacher training in the ACT now incorporates a compulsory unit on Aboriginal education.

2293

12

In recognition of this, the Department involves the Advisory Committee on Aboriginal Education, the Aboriginal Education Consultative Group, the Aboriginal Education Workers, the Aboriginal Student Support and Parent Awareness committees and the Aboriginal and Torres Strait Islander Advisory Council in curriculum development and delivery.

The ACT has continued to provide and improve services to Aboriginal and Torres Strait Islander students through the Aboriginal Education Strategic Initiatives Program. These services include: the Yurauna Centre at the Canberra Institute of Technology, which provides a comprehensive support and advice service to Aboriginal and Torres Strait Islander students; bridging courses in literacy and numeracy; vocational courses designed for Aboriginal peoples and Torres Strait Islanders; and the employment of Aboriginal Education Workers, Aboriginal Home School Liaison Officers, Aboriginal Mentors and an Aboriginal artist in residence.

The Department of Education and Training is also consulting the Aboriginal and Torres Strait Islander communities on the structure and content of possible language programs for an Aboriginal Language/Cultures Program in ACT Government schools.

ECONOMIC DEVELOPMENT

The circumstances of Aboriginal peoples and Torres Strait Islanders are taken into account in developing employment related programs within my Department. Discussions have commenced with the Commonwealth Department of Employment, Education and Training to facilitate the development in 1993-94 of an 'ACT Government Service Aboriginal Peoples and Torres Strait Islanders Employment and Career Path Strategy'. 'Guidelines for Aboriginal Identified Positions' were released in 1993 and a revised version will include a strategy on 'Career Paths for Officers in Aboriginal Identified Positions'.

2294

13

Funding was set aside in the 1993-94 Budget to establish an Aboriginal Employment Development Team.

The team will work in consultation with local communities and relevant government agencies to increase employment and training opportunities for Aboriginal peoples and Torres Strait Islanders. In addition, an Equity Training Allowance for ACT Government Service labour market programs was provided for in the 1993-94 Budget.

HEALTH

The ACT has maintained its funding for the Winnunga Nimmityjah Aboriginal Health Service and has obtained funds under the National Aboriginal Health Strategy to pay for a full time coordinator for the Service. Funds have also been obtained through the Strategy for a mental health worker; a drug, alcohol and HIV/AIDS worker; a hospital based Aboriginal liaison worker; an education program for mainstream health workers on Aboriginal issues; and an immunisation service.

HOUSING AND INFRASTRUCTURE

The ACT Housing Trust now collects information which, in consultation with the Aboriginal and Torres Strait Islander communities, will assist in identifying housing needs specific to that community. The ACT Government has received money under the National Aboriginal Health Strategy to jointly fund an emergency accommodation project for Aboriginal and Torres Strait Islander people.

MONITORING

I believe it is essential that the implementation of the Royal Commission's recommendations is closely monitored.

2295

16 June 1994

14

The ACT's Progress Report will be cross tabled with the other State, Territory and Commonwealth monitoring reports in the Commonwealth, State and Territory Parliaments, in accordance with Recommendation One of the Royal Commission's Report.

It is however important that not only governments, but also Aboriginal peoples and Torres Strait Islanders monitor the implementation of the Royal Commission's recommendations. The ACT Aboriginal and Torres Strait Islander Advisory Council will be monitoring the implementation of the recommendations in the ACT and will be providing me with its report later this year.

The tabling of this report is a significant milestone in the process of redressing the disadvantage suffered by Aboriginal peoples and Torres Strait Islanders.

2296

APPENDIX 18:

(Incorporated in Hansard on 16 June 1994 at page 2116)

1994

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY
GOVERNMENT RESPONSE TO "CLEARING THE AIR": A REPORT
BY THE STANDING COMMITTEE ON CONSERVATION, HERITAGE
AND ENVIRONMENT ON
SMOKE-FREE AREAS (ENCLOSED PUBLIC PLACES) BILL 1993

TABLING STATEMENT

Circulated by the Authority of

Minister for Health

Terry Connolly MLA

2297

The Government commends the Standing Committee for Conservation, Heritage and Environment on its consideration of protection of public health from environmental tobacco smoke.

The Government, having considered very carefully the arguments set out in the Committee's report, concurs with Ms Ellis's position.

There are two key recommendations of the report which the Government cannot accept:

- the adoption of a mechanical ventilation and air conditioning standard as a standard for acceptable air quality in premises where smoking can occur; and
- the extension of the smoke-free requirement to all remaining enclosed public places within 30 months of gazettal of the legislation.

First, the ventilation standard proposal.

The Committee's adoption of the AS1668.2-1991, The use of mechanical ventilation and air conditioning in buildings, as a standard for air quality in enclosed areas where smoking can occur was driven by the acknowledgement that ETS contributes to public health risks and the perception that some businesses wish to accommodate smoking in their premises.

Adoption of this standard, however, is not -- and was never designed to be -- a tenable solution to the problem of environmental tobacco smoke. Better air conditioning is not the solution to this important health problem.

The Committee, unfortunately, appears to have misinterpreted crucial information in reaching its recommendation.

The two cornerstones of the Committee's report are that AS 1668.2 is a health-based standard and that the proposed use of the standard to create a 'safe' indoor environment is legitimate since it has allegedly been used in this way by the New South Wales occupational health and safety agency, the WorkCover Authority.

Both of these cornerstones crumble when held up against the evidence. Both Standards Australia and the NSW WorkCover Authority have cautioned against applying AS 1668.2 as a health-based standard to remove the risks associated with environmental tobacco smoke.

The General Manager of Standards Operations for Standards Australia, Mr Peter Walsh, states that the health risk presented by environmental tobacco smoke may not be eliminated by adherence of AS 1668.2. The Government believes, therefore, that to invoke the standard in this way would be to provide a false sense of security that health considerations are being met.

Mr Walsh goes on to say that, "To apply the published Standard to structures which may not be mechanically ventilated or air conditioned, may be inappropriate. The scope of the document clearly indicates the intention of the Committee: "This Standard sets out requirements for air-handling systems which ventilate enclosures by mechanical means..."

Mr Walsh also distances Standards Australia from the comments by Mr West upon which the Committee has placed so much value. According to Mr Walsh, Mr West's comments do not appear to have been made at a Standards Australia organised meeting, seminar or other official gathering.

Given his knowledge of the intention of the Standard during the drafting process, Mr Walsh suggests that the intent of Mr West's statement was that the Standard would deal with health in terms of comfort levels of contaminants for occupants. This is very different from saying it is a health-based standard in the way that we mean 'health' in a medical context.

As the Committee was told by ventilation experts during the public hearings, the Standard is a building design standard intended to achieve comfort for occupants by reducing odour levels.

The New South Wales WorkCover Authority also takes issue with allegations made in the Committee's report. Specifically, in respect of the statement at section 4.12, Mr Peter Harley, WorkCover's Manager of Scientific Services, states that it is inaccurate to report that AS 1668.2 is being used as a key mechanism by WorkCover NSW for controlling exposure to ETS.

Mr Harley also expresses concern with information provided to the Committee by the Liquor Trades Union, cited in section 4.9 of the report. This information is still at an early stage of preparation and has no status as a published document deriving from the WorkCover Authority.

WorkCover states, quite categorically, that it recommends that the most effective manner in which to fulfil the legal obligation to provide a safe and healthy working environment is through the implementation of a no-smoking policy in the workplace.

Where ventilation techniques are used, employers will need to be able to demonstrate that these measures are equal to, or exceed, the level of health and safety provided by a no-smoking policy.

I would also like to quote WorkCover's comment on the use of ventilation and air quality standards:

'Because of the large number of chemicals in environmental tobacco smoke, there is no internationally accepted standard which provides specific guidance on passive smoking. Likewise, Ventilation Codes applying to Australia and other countries focus upon comfort rather than health considerations.'

16 June 1994

4

The facts are these:

- there is no evidence to indicate that the adoption of AS 1668.2 for the purposes proposed by the Committee will result in air quality which approximates air where no smoking occurs;
- it would be costly for premises to install and operate equipment to meet the standard, especially where systems were installed prior to 1991;
- there would be substantial environmental costs due not only to the direct operation of the equipment, but to vastly increased heating and cooling costs;
- for some premises, occupiers may have limited, or no, control over the level of equipment and the rate at which it operates; and
- quite simply, adoption of the standard, as recommended by the Committee, will not remove the risk of litigation for passive smoking-related illness and conditions.

For the ACT to adopt this standard would set an improper precedent for the Nation and perpetrate the health risks for people exposed to environmental tobacco smoke.

Before moving on, to the second major area of Government concern, I would like to draw to the Assembly's attention to a remarkable coincidence.

As I was reading the Committee's ideas about what the ACT legislation should look like, I realised where I had seen this particular formula before: the majority report by the ACT Standing Committee on the Environment is identical to legislation being proposed in the US State of California by none other than Phillip Morris.

According to published media reports, Phillip Morris, using an in-state consultant, is proposing a law which prohibits smoking in restaurants and workplaces unless 'rigorous ventilation standards' are met. Only then could a restaurant owner designate a maximum of 25% of seating for smoking.

What are these 'rigorous ventilation standards'? They are the U.S. ventilation standard 'ASHRAE 62' -- the standard on which AS 1668.2 is based.

A remarkable coincidence?

The second major concern the Government has with the Committee's report is the decision to bring all remaining enclosed public places under the smoke-free regime within 30 months of gazettal of the legislation.

In itself, this is a commendable goal.

2300

However, as Ms Ellis's dissenting report points out, there is a need for fertile ground, for broad community support, when implementing smoking prohibitions. As the Government has stated many times, this is an area in which we want to bring the public with us.

The indications are that while the public is more than ready to support smoke-free restaurants, there is still considerable resistance to bars, gaming areas, and the like going smoke-free.

What the Government proposes is that changes in smoking patterns be reviewed after 24 months, to see whether, and what, further action is desirable.

I now turn to some of the other recommendations of the report.

The Government is prepared to agree to the recommendation that the responsibility of occupiers of premises where smoking is prohibited be limited to requesting smokers to stop smoking in prohibited areas and informing smokers that they are committing an offence.

We believe that an obligation on occupiers to remove any smoking paraphernalia -- ash trays, matches and the like -- that could encourage people to smoke is also warranted and would have the effect of making occupiers' responsibilities easier to meet.

As I have already indicated, there is no change to the Government's position that restaurants must be included in the range of places which should go smoke-free.

In relation to the Committee's recommendation that premises go smoke-free immediately, the Government's position is that it is only reasonable to allow a 60-day period to prepare for the introduction of the requirements.

In summary, the Government has built on the Committee's report by presenting a way forward which is reasonable, soundly-based, and achievable.