DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

25 August 1994

Thursday, 25 August 1994

Petition: Car parking near Parliamentary Triangle 2663
Taxation (Administration) (Amendment) Bill 1994 2664
Bookmakers (Amendment) Bill (No. 2) 1994 2665
Gaming and Betting (Amendment) Bill (No. 2) 1994 2668
Games Wagers and Betting-houses (Amendment) Bill 1994 2668
Workers' Compensation (Amendment) Bill 1994 2669
Magistrates Court (Enforcement of Judgments) Bill 1994 2673
Publications Control (Amendment) Bill 1994 2674
Conservation, Heritage and Environment - standing committee 2677
Euthanasia - select committee 2678
Legal Affairs - standing committee 2680
Public Accounts - standing committee 2682
Public Accounts - standing committee 2685
Public Accounts - standing committee 2686
Legal Affairs - standing committee 2689
Administration and Procedures - standing committee 2693
Public Accounts - standing committee 2694
Conservation, Heritage and Environment - standing committee 2694
Questions without notice:
- Electricity charges 2696
- Commonwealth Games - Aboriginal flag 2699
- Economic Priorities Advisory Committee member 2699
- North Watson development 2701
- Plain English legislation 2702
- Burmah Fuels contract 2703
- Food and Wine Frolic 2704
- Medium density redevelopment applications 2705
- Kippax shopping centre - community facilities 2706
- ACTTAB - contract with VITAB Ltd 2706
- Residential development 2707

Temporary Deputy Speaker 2707
Auditor-General - report No. 6 of 1994 2707
Public Accounts - standing committee 2708
Leave of absence to member 2709
Appropriation Bill 1994-95 2709
Estimates 1994-95 - select committee 2732
Mental Health (Treatment and Care) Bill 1994 2733
Mental Health (Consequential Provisions) Bill 1994 2740
Crimes (Amendment) Bill 1994 2748
Proposed select committee 2749
Adjournment:
- Mal Meninga 2752
- Kieren Perkins 2753
- Planning, Development and Infrastructure Committee 2754
- Rip and Tear Theatre 2754
- Tibet 2755
- Margaret Holt 2756
- Women's sport : Floriade bus services 2756

Answers to questions:
- Mentally ill adolescents facility (Question No. 1297) 2759
- Restraining order applications (Question No. 1322) 2760
- Government Service - commencement reception (Question No. 1334) 2762
- Building regulations - penalties for breaches (Question No. 1373) 2763

Appendix 1: Budget supplementation 2765
Appendix 2: Tobacco franchise fee revenue 2768
Appendix 3: Commercial and Tenancy Tribunal Bill 1994 2769

Thursday, 25 August 1994

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

PETITION

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

By Mr Cornwell, from 362 residents, requesting that the Assembly abandon the proposal to convert existing car parks near the Parliamentary Triangle into paid parking facilities.

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

Car Parking near Parliamentary Triangle

The petition read as follows:

To the Speaker and Members of the Legislative Assembly of the Australian Capital Territory:

The Petition of certain residents of the ACT draws to the attention of the Assembly that the proposed conversion of existing, purpose-built, worker car-parks, adjacent to Commonwealth buildings near the Parliamentary Triangle, into paid-parking facilities is an inequitable, unjust tax.

It is inequitable in that the car-parks were installed as a necessary worker facility and are not in demand for any other purpose (as are parking spaces in city or town centres). The tax is also inequitable in that it singles out only one class of citizen for, what amounts to, a wage reduction - non-SES, government workers.

The tax is unjust in that it impacts most heavily on the more lowly-paid workers (for an ASO2 it represents a wage reduction of 8.27%) and workers from less-affluent outer areas from where bus travel is impractical. The proposal is especially unjust in that it would impact very heavily on struggling, married staff from outer areas who have to deliver children to, and collect them from, child-care on their way to and from work. In addition, the affected staff work in Commonwealth

buildings located in an area of Canberra isolated from normal city or town amenities. The Parliamentary Triangle is also bereft of either convenient after-hours bus services or alternative public transport, eg frequent train and/or tram services taken as normal in other capital cities.

Your petitioners therefore request that the Assembly abandons the proposal.

Petition received.

TAXATION (ADMINISTRATION) (AMENDMENT) BILL 1994

MS FOLLETT (Chief Minister and Treasurer) (10.31): I present the Taxation (Administration) (Amendment) Bill 1994.

Title read by Clerk.

MS FOLLETT: I move:

That this Bill be agreed to in principle.

Madam Speaker, the Bill proposes a number of amendments to the Taxation (Administration) Act 1987. These proposals will affect the way unpaid taxes are recovered and returns are lodged for assessment and the period in which assessments can be amended. Amendments are also to be made to the Act to recognise the repeal of the Companies Act 1981.

Where a taxpayer is dissatisfied with an assessment of tax liability, that taxpayer may appeal to the Administrative Appeals Tribunal. Where the taxpayer alleges that the assessment is excessive, an issue can arise as to which of the parties - the Commissioner for ACT Revenue or the taxpayer - should carry the primary onus of proving their case. As many assessments are for considerable amounts, this uncertainty should be removed. To protect ACT revenue, amendments in this Bill will clarify the issue by providing that the burden of proving that an assessment is excessive rests upon the taxpayer. This amendment recognises the principle that it is the taxpayer who is generally the best acquainted with their own affairs and has access to all the material facts and is therefore well placed to prove their case against the commissioner's decision. This principle has been recognised in the tax legislation of the Commonwealth and various State jurisdictions, including New South Wales.

The placing of the onus of proof on the taxpayer will not, however, extinguish the requirement for the commissioner to furnish particulars supporting an assessment in the legal process, nor will it lessen the onus on the commissioner to act fairly and reasonably when determining an assessment. This Bill also amends the Act to provide that any action taken for the recovery of a tax debt is taken, not in the name of the Territory, as is presently the case, but in the name of the commissioner on behalf of the Territory.

This change will provide that the commissioner's actions in discharging statutory responsibilities are readily distinguishable from, and not attributable to, the Executive Government.

Madam Speaker, further amendments to the Act are also proposed to extend the period in which the commissioner can issue an amended assessment. Currently, the commissioner can issue an amended assessment only within a period of three years after assessing an amount of tax. This is inadequate where tax is self-assessed and programmed audits by the ACT Revenue Office cannot ensure that there is a reasonable prospect of returns being audited within the three-year period. An extension of the period for amended assessments would, therefore, increase the prospect of all self-assessing taxpayers being subject to audit and any underpayments of tax being detected and corrected.

As taxpayers are already required to preserve their records for at least six years after a matter is completed, this Bill amends the Act to extend the period within which the commissioner can issue an amended assessment from three years to six years. However, in cases where the commissioner believes, on reasonable grounds, that there has been tax avoidance due to fraud or evasion or where a material fact has been omitted, this Bill provides that the commissioner will have an unlimited time within which to issue an amended assessment. This will ensure protection of ACT revenues.

Madam Speaker, this Bill will also amend the Act to allow the commissioner to vary the date and frequency of lodging returns for the assessment of duty. The Payroll Tax Act 1987 already empowers the commissioner to vary the date and frequency for the lodgment of payroll tax returns where the commissioner is satisfied that it would be unduly onerous for an employer to lodge their returns in accordance with the provisions of the Payroll Tax Act 1987. This change will, therefore, simply be extending this measure to all taxpayers who are required to lodge returns for assessment. Finally, Madam Speaker, amendments will be made to the Act to replace the out-of-date references to the Companies Act 1981 with references to the new Corporations Law. I commend the Bill to the Assembly and I present an explanatory memorandum to the Bill.

Debate (on motion by Mr Kaine) adjourned.

BOOKMAKERS (AMENDMENT) BILL (NO. 2) 1994

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (10.36): Madam Speaker, I present the Bookmakers (Amendment) Bill (No. 2) 1994.

Title read by Clerk.

MR LAMONT: I move:

That this Bill be agreed to in principle.

May I say at the outset, Madam Speaker, that I appreciate the in-principle support which has been given to this initiative by the Opposition and I look forward to working with them to see the successful passage of this package of Bills through the chamber. The Bookmakers (Amendment) Bill (No. 2) 1994 forms part of a package of three Bills that will provide for the appropriate regulation and control of betting on sporting and other events in the ACT. I will be introducing two further Bills - the Gaming and Betting (Amendment) Bill (No. 2) 1994 and the Games Wagers and Betting-houses (Amendment) Bill 1994 - which, together with this Bill, will provide for an overall framework for such sports betting activities.

The existing legislative provisions covering bookmakers accepting bets, on other than horse or dog racing events, whilst fielding at a racecourse are inadequate. As a result, betting on sporting and other events has been occurring in an unregulated environment where there is no requirement to maintain appropriate records, the Government does not receive any taxation revenue and the security of wagers accepted is not assured. A regulated sports betting service is available in some form in most Australian States and the Northern Territory. However, it is the Northern Territory that has emerged as the clear Australian leader in the sports betting service, with turnover in 1993-94 reaching some $35m.

I understand that the success of sports betting in the Territory is due mainly to the relatively unrestricted framework established which allows sports bookmakers to offer the betting service on a 24-hour-a-day basis and to accept bets by telephone and facsimile. In the Northern Territory, punters are also able to bet on a wide range of sporting events and other contingencies, such as elections. The sports betting models adopted in other States are less successful, chiefly because of the many restrictive controls in place. As the Northern Territory model confirms, the provision of a high-quality service in concert with appropriate levels of protection for punters is achievable without excessive restrictions. The Bookmakers (Amendment) Bill (No. 2) 1994 will, therefore, provide for a regulatory framework to allow for the sports betting service to operate in a flexible, yet controlled, environment, along the lines of the Northern Territory.

I now pass to the key features of the Bill. The legislation will provide for the control of the sports betting service through the separate licensing of sports betting bookmakers. Only existing licensed bookmakers may apply for a sports betting licence and only a limited number of licences will be issued, as determined by the Minister. Licences will be issued to individuals, syndicates or companies following a selection process. Before being granted a sports betting licence, the bookmaker must satisfy suitability requirements and be provided with guarantee undertaking from the New South Wales Bookmakers Co-operative Society. Bookmakers will be required to pay an application fee and an annual licence fee.

The Bill provides for the effective resolution of disputes in respect of sports betting transactions through the Registrar of Bookmakers and by extending the powers and membership of the existing Bookmakers Licensing Committee. The legislation will allow the Minister to issue directions concerning the events on which bets may be accepted, the rules of betting on those events, the methods by which bets may be transacted, the records to be maintained by the sports bookmakers, the location of a facility to be used for sports betting and procedures in respect of the operation of this sports betting facility.

The instructions issued by the Minister will also cover the security of long-term wagers accepted by the bookmaker. Bookmakers will be required to hold, in trust, all bets accepted on events or contingencies where the outcome of the event is not known for a period exceeding 28 days.

The sports betting service will be provided from a betting auditorium. The preferred location of the betting auditorium is the Canberra Racecourse. The betting auditorium arrangement is similar to that at the Morphettville Racecourse at Adelaide. The auditorium will be equipped to ensure that all telephone calls are recorded and all facsimile transmissions are logged. Such arrangements will ensure that records are maintained properly and all revenue is forwarded to the Government. Sports betting bookmakers will be required to pay a rate of turnover tax, as determined by the Minister. The taxation rate will be set initially at 1.25 per cent, which is the same as the taxation rate applying to existing bookmakers.

The introduction of this legislation to provide for sports betting is not expected to draw support away from the traditional bookmaking and TAB services, nor from the casino and/or licensed clubs. Rather, I consider that a whole new audience will be attracted to the idea of having a flutter on the Canberra Raiders winning a game or the premiership or the Australian cricket team winning a limited-overs match, for example. Madam Speaker, in the debate on the Bookmakers (Amendment) Bill 1994, concerning the introduction of on-course telephone betting, the Deputy Leader of the Opposition called on this Government to develop legislation to allow bookmakers to accept bets on sporting events. I am pleased to say that this legislation goes much further than simply allowing bookmakers to accept bets on sporting events whilst fielding at a racecourse, and I sincerely hope that the members opposite heed Mr De Domenico's words when the Assembly debates these Bills.

The package of Bills that I present today provides the opportunity for the ACT to establish a sports betting framework that will allow for the establishment of a first-rate sports betting service to the citizens of Canberra and the region, which may encourage interstate operators to establish a presence in the ACT. Madam Speaker, the passage of this Bill, along with the two related Bills, will ensure that the service of sports betting, currently available in an unregulated and uncontrolled environment, will be conducted in a manner which will provide flexibility for the bookmakers and control for the Government. I would like to express my thanks to the good officers of the Parliamentary Counsel's Office and in particular to Nick Horn for his assistance in the development of this Bill and the two following Bills. Madam Speaker, I present an explanatory memorandum to the Bill.

Debate (on motion by Mr De Domenico) adjourned.

GAMING AND BETTING (AMENDMENT) BILL (NO. 2) 1994

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (10.44): I present the Gaming and Betting (Amendment) Bill (No. 2) 1994.

Title read by Clerk.

MR LAMONT: I move:

That this Bill be agreed to in principle.

Madam Speaker, this Bill is the second Bill in the package to allow for the appropriate conduct and control of sports betting. The Gaming and Betting (Amendment) Bill (No. 2) 1994 amends the Gaming and Betting Act 1906 to provide consequential amendments in respect of the advertising of a sports betting service. The Bill provides for the sports bookmakers to be able to publish and advertise the sports betting service and, more importantly, the betting markets, or odds, in respect of sporting or other contingencies. Newspapers regularly publish the latest odds, and television and radio sporting commentators openly discuss betting odds on air. Any legislative restrictions on sports bookmakers publishing or advertising odds is undesirable. It would do little more than adversely impact on the sports betting operation and stifle any opportunities to develop and promote the service. Madam Speaker, the Gaming and Betting (Amendment) Bill (No. 2) 1994 will consequentially provide for sports bookmakers to advertise their markets and services, without restriction. I present an explanatory memorandum to the Bill.

Debate (on motion by Mr De Domenico) adjourned.

GAMES WAGERS AND BETTING-HOUSES (AMENDMENT) BILL 1994

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (10.45): I present the Games Wagers and Betting-houses (Amendment) Bill 1994.

Title read by Clerk.

MR LAMONT: I move:

That this Bill be agreed to in principle.

Madam Speaker, the Games Wagers and Betting-houses (Amendment) Bill 1994 is the third Bill in the sports betting package. It amends the Games Wagers and Betting-houses Act 1901 to provide for the establishment of a location known as a betting auditorium. The betting auditorium is an integral part of the framework developed to conduct the sports betting service. Such an arrangement will provide a publicly identifiable and appropriately monitored betting environment where sports bookmakers can service

their customers. Bookmakers at the betting auditorium will also continue to field on thoroughbred, harness and greyhound events as well as sporting events and contingencies. Madam Speaker, the package of Bills will provide a flexible, yet regulated, framework for the sports betting service and will allow for the establishment of a first-class sports betting service and facility in the Territory. I present the explanatory memorandum to the Bill.

Debate (on motion by Mr De Domenico) adjourned.

WORKERS' COMPENSATION (AMENDMENT) BILL 1994

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (10.47): Madam Speaker, I present the Workers' Compensation (Amendment) Bill 1994.

Title read by Clerk.

MR LAMONT: I move:

That this Bill be agreed to in principle.

Madam Speaker, I am pleased to present to the Assembly a Bill to provide injured workers in the private sector with access to occupational rehabilitation. The Bill also contains provisions aimed at ensuring that employers more quickly commence weekly compensation payments to injured workers, and it facilitates the termination of those payments to workers who are no longer entitled to receive them. The Government is concerned about the cost to the community and to individuals of workplace injuries. It has already taken steps to improve the effectiveness of the occupational health and safety legislation, aimed at preventing workplace injuries, and now seeks, with this Bill, to improve the position of individual workers who are unfortunate enough to suffer workplace injury.

Madam Speaker, many studies have concluded that the early provision of occupational rehabilitation plays a major part in both assisting the injured worker to recover from the trauma of injury and reducing the compensation costs of an injury. Indeed, prudent ACT workers compensation insurers are already providing some occupational rehabilitation to injured workers; but this is not happening on a wide enough scale. In 1991, the Workers Compensation Monitoring Committee - a non-statutory committee comprising representatives of the workers compensation insurers, unions, employer associations and the Government - began developing proposals for an occupational rehabilitation scheme. The Government encouraged the parties because it saw merit in developing a scheme that had the support of all the key players.

In early 1992, the committee presented its suggested scheme to the then Minister for Industrial Relations, but with some elements of the proposed scheme not supported by all parties. The scheme was released for public comment in mid-1993. Thirteen industry submissions were received, and all of them were critical of the suggested scheme.

Unfortunately, the criticisms did not suggest any common direction which would have enabled a final scheme to be prepared. The views expressed in those submissions indicated that agreement on final details of a scheme was unlikely at this time.

In late 1993, the Government suggested to the Workers Compensation Monitoring Committee that an interim scheme of occupational rehabilitation be introduced pending the development of a final scheme. This proposal for a "bare bones" type of scheme received the support of all members. The interim scheme has, as its centre pin, a legal obligation for employers, through their insurers, to provide reasonable occupational rehabilitation to injured workers unless the claim is rejected. This central obligation is contained in the new section 15B in the Bill. Some supporting elements were also added by the committee, with employers being required to develop and maintain an occupational rehabilitation policy in consultation with their work force and to appoint a rehabilitation coordinator for their employees.

The interim scheme relies heavily on the good faith of the parties. It does not specify what is to be contained in a rehabilitation policy, nor the qualifications or duties of a rehabilitation coordinator. Those matters will need to be addressed in a final scheme. The interim scheme does establish a legislative framework within which workers can enforce a legal right to receive occupational rehabilitation and through which employers and insurers can carry out occupational rehabilitation in a fully effective manner.

The legislative provisions are only part of the occupational rehabilitation strategy proposed by the Government, with the endorsement of the Workers Compensation Monitoring Committee. The other non-legislative element is the development of a "protocol", or code of practice, which will set out the manner in which each party will seek to carry out its obligations in relation to occupational rehabilitation. The protocol is a new development. Through it, the Government believes, the industry parties will be able to develop and observe an agreed code of practice, thereby avoiding the need for complex regulatory obligations to control all aspects of workers compensation.

This protocol has the potential to provide flexibility and adaptability, which are not characteristic of legislation. Insurers have expressed support for the use of voluntary codes rather than prescriptive legislation. The Government will be proceeding with the development of a final occupational rehabilitation scheme. If the protocol fails to achieve the results expected of it, then this can be taken into account when the final scheme is developed. If it is successful, then it may not be necessary for the Government to legislate.

Madam Speaker, the Bill also introduces important reforms concerning the making of weekly compensation payments. These payments are of vital concern to injured workers and their families. It is an essential aspect of a workers compensation scheme that it should deliver quickly income maintenance payments to the injured worker to ensure the security needed to underpin the appropriate rehabilitation program. In this regard, our existing scheme is seriously deficient. There are no time limits on meeting claims for weekly compensation payments. Workers can be left for months while their entitlement to workers compensation is decided. These problems have been recognised by the unions and employer associations and, most importantly, by insurers.

The Workers Compensation Monitoring Committee has recommended time limits for deciding claims. These time limits are reflected in new sections 26A and 26B in the Bill. They are an important step forward for injured workers, as they should result in injured workers receiving initial weekly compensation payments no later than the fifth week after they are injured.

Madam Speaker, this brings me to the provisions of the new Bill which deal with termination of weekly compensation payments to workers. Unlike in respect of the previous elements of the Bill, the Workers Compensation Monitoring Committee had only partial success in agreeing to revised provisions to cover the termination of weekly compensation payments to workers. The problem arises because of a legal decision, commonly referred to as Barbaro's case, which provides that, once an employer has commenced weekly compensation payments to a worker, the employer cannot unilaterally terminate those benefits without first seeking the approval of the court.

Insurers have said that this decision makes them reluctant to commence weekly compensation payments in cases where there is some doubt about their liability, because it is so difficult to terminate them. Both insurers and unions agreed that a worker should be given eight weeks' notice before weekly compensation payments are terminated; but they disagreed about how the termination should take place. Insurers asked for the right to give a worker eight weeks' notice of termination of the weekly compensation payments. Unions asked that court approval always be required where the termination of weekly compensation payments was contested.

The Government has decided on a compromise position. The Bill provides that, for the first 12 months, insurers can unilaterally terminate weekly compensation payments by giving eight weeks' notice. After 12 months, court approval will be needed. Thus the Bill provides a 12-month window in which employers can readily terminate benefits in the way that they would envisage. This 12-month period enables the insurer to collect evidence and information and to determine whether they are, in fact, liable. At the end of 12 months the insurer can still terminate benefits but must seek court approval. This provides a measure of protection to the long-term, more seriously injured workers. Madam Speaker, it is my understanding from informal discussions that that will probably provide the major point of argument in relation to this initiative. Insurers believe that the Barbaro principles should be done away with unilaterally. Unions believe that they are a protection which they are entitled to at law and, therefore, it would be a retrogressive step to do away with them unilaterally. In making the decision that I have, to bring forward the legislation in the form in which it is presented today, I had to take into account those two competing issues.

Principally, the insurers' position has been that, once they have commenced payments to an injured worker, they require some method, other than proceeding to court, to allow for valid termination. We have provided that in this legislation; but what we have said is that within the first 12 months of such payments occurring would be the appropriate time for an insurer to gather evidence to test the validity of a continuing liability in respect of an injured worker and to make a decision. The insurer would be required to notify the injured worker, giving them eight weeks' notice and setting out the reasons for the termination. At the same time, the insurer would be required to provide to the nominal insurer such information as it provided to the injured worker. This requirement is

included so that, when we review the operation of the new provisions in a year's time, we are all arguing from the same set of facts; not arguing on what some of the unions may suggest is a lopsided view of some of the insurers, nor relying on what some of the insurers regard as a lopsided view of some of the unions. So what we have put into place in this initiative, I believe, will suit injured workers in the ACT, employers and the insurance companies themselves by being able to test the validity of assumptions that are being made about workers compensation.

Personally, I regard the most significant initiative within this Bill to be the establishment of an occupational rehabilitation scheme in the ACT - something which is long overdue and something which is supported by employers, trade unions and insurers. A properly constructed, administered and implemented occupational rehabilitation scheme will provide that the skills of injured workers, which are greatly missed by employers, will be able to be availed of sooner if an injured worker is rehabilitated to work in a shorter period. The Bill provides a framework for that to occur. It is an initiative that Mr De Domenico most certainly has supported for at least the last 15 years. So I am pleased that that principle, at least, within the Bill should receive wide support in this Assembly.

Madam Speaker, given my background, I have had to think long and hard about the decision to provide a Bill which, essentially, within the first 12 months of workers compensation payments commencing, will do away with the Barbaro principle. It has been the guiding principle by which workers compensation payments have been made and terminated in the ACT since 1978 or 1979. I stand to be corrected on the exact year; but it is my understanding that that was about the time of the Barbaro decision. The unions believe that there should be no diminution of the principles outlined in that court case. However, given that this Bill is predicated on a speedy return to work of injured workers, I believe that it is reasonable, in a controlled framework, to allow that matter to be tested, and this Bill provides an adequate framework for the matter to be tested.

There is an unequivocal commitment by the Government to review the operation of this legislation after a year. There is an unequivocal commitment, as well, to not wishing to see an injured worker who is covered by the current provisions of the Workers Compensation Act in the ACT treated under the new Bill. In other words, we do not wish to legislate away an existing right of an injured worker. So this Bill will apply only to workers who are injured from the date on which it is implemented. I believe that that also is a fundamental principle which this Assembly should endorse. Madam Speaker, I present an explanatory memorandum to the Bill.

Debate (on motion by Mr De Domenico) adjourned.

MAGISTRATES COURT (ENFORCEMENT OF JUDGMENTS) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (11.02): Madam Speaker, I present the Magistrates Court (Enforcement of Judgments) Bill 1994.

Title read by Clerk.

MR CONNOLLY: I move:

That this Bill be agreed to in principle.

This Bill was tabled in the Assembly earlier this year as an exposure draft for public comment. In essence, the Bill provides for new procedures for the enforcement of judgment debts and implements the Australian Law Reform Commission's report on debt recovery and insolvency - a report that was issued in the early 1980s. The traditional enforcement orders that the Magistrates Court can make remain unchanged. Those enforcement orders are instalment orders, garnishee orders and writs of execution. The Bill sets out new procedures for obtaining and applying these orders.

Madam Speaker, this may not be one of the more glamorous areas of the law; nevertheless, the significance of this legislation should not be underestimated. As I indicated in my tabling speech, this legislation has relevance to those persons in the community who have difficulty obtaining moneys due to them from judgment debtors. Equally, the Bill has relevance to those persons who cannot or will not pay their judgment debts. The current enforcement procedures are outdated, inadequate and inefficient. One good example of this concerns garnishee orders made against a judgment debtor's earnings. Currently, a garnishee order applies to only one pay period. It is a time consuming and expensive process for a judgment creditor to keep seeking any necessary continuation of the order on a pay by pay basis. The Bill provides that a garnishee order will continue to operate until the judgment debt is entirely extinguished.

The reach of the legislation, through the usual garnishee orders, also extends to employers and financial institutions. For example, a judgment creditor may obtain garnishee orders against a judgment debtor who is in paid employment and with savings in the bank. In this situation, the employer subject to the garnishee order will be required to divert part of the employee's wages or salary to the judgment creditor. Likewise, the bank will be required to pay the savings of the judgment debtor to the judgment creditor to satisfy the judgment debt. There are, of course, safeguards built into the legislation which protect various aspects of the judgment debtor's personal and working life.

Madam Speaker, there are many similar examples outlined in my tabling speech which demonstrate the benefits of the legislation. I will not go over them again now. Not surprisingly, submissions received during the public consultation stage were strongly positive and supportive of the legislation. I would like to take this opportunity to formally thank those persons and organisations who took the trouble to examine the draft Bill, and especially those who provided written comments. It is also an appropriate opportunity to commend the Magistrates Court for their assistance. I know that the court has worked closely with my department in developing and refining the legislation.

Madam Speaker, there have been no major or significant changes made to the Bill since it was tabled in March this year. The Bill being introduced today is almost identical to the Bill that was tabled, and my introductory speech at that point is a relevant reference. The changes have been minor and few in number. However, I do not want to be appearing to suggest that the public consultation stage was unproductive. It has had the important advantage of allowing the Bill to be finetuned. Madam Speaker, I will give you an example of this finetuning. The original Bill allowed the court, at the time of giving judgment, to make enforcement orders. On the suggestion of the Magistrates Court, the Bill has been revised to give the court a discretion, after it has given judgment, to delegate to the registrar its powers to make enforcement orders. This may appear to be a small change; yet it and others have the combined effect of making the legislation more workable in practice and, of course, in saving court time and costs.

Madam Speaker, new forms to be used in conjunction with the legislation are necessary. The Magistrates Court, assisted by my department, is currently developing those forms, and I expect that they will be completed by about October. The forms will commence by notice in the *Gazette*, and this notice will be a disallowable instrument. It is expected that this legislation and the forms will have the same commencement date. I am hopeful, subject to the Bill's passage through this place, that the legislation and the accompanying forms will commence and be fully operational at the end of this year.

Madam Speaker, the procedural reforms contained in this Bill are another indication of the importance that this Government attaches to law reform. By all accounts, the legislation will make a positive contribution to meeting the needs of the ACT community. These new procedures not only will enable judgment creditors to more effectively enforce judgment debts but also will ensure that judgment debtors are adequately protected. Madam Speaker, the Bill is certainly long and somewhat technical. Prior to its being debated, members may wish to consult officers of my department over fine detail, and those officers will, of course, be at members' disposal. I commend the Bill to the house and present the explanatory memorandum.

Debate (on motion by Mr Humphries) adjourned.

PUBLICATIONS CONTROL (AMENDMENT) BILL 1994

MR CONNOLLY (Attorney-General and Minister for Health) (11.07): I present the Publications Control (Amendment) Bill 1994.

Title read by Clerk.

MR CONNOLLY: Madam Speaker, I move:

That this Bill be agreed to in principle.

The ACT Government has expressed its support for the Commonwealth's initiative to introduce a classification scheme for computer games. To put this scheme into effect we need to amend the Publications Control Act 1989 to recognise the classification scheme

for computer games. We have also agreed to make a draft of this legislation available as model legislation for other jurisdictions. The amendments to the Classification of Publications Ordinance 1983, which set up the classification scheme for computer games, came into force on 11 April 1994.

Madam Speaker, the scheme to classify computer games will cover material that is of an interactive computer, or video, game type and material that is of a static computer image type. The issue for classification purposes will be whether an offensive or censorable image is produced. Computer games or images offered for sale, hire or use in a public place would be subject to classification against an agreed set of guidelines. There are two exceptions to the classification proposal. Firstly, bulletin board systems are not regulated under this scheme. The Commonwealth has set up a task force to look into the issue. I have expressed some grave concerns about this because bulletin boards are very difficult technically to regulate and potentially threaten to undermine the scheme. Secondly, business, accounting or educational software is not regulated unless it contains adult-type material.

The new guidelines are to be applied more strictly than those for the classification of films and videos because of the concern that computer games, by their interactive nature, may have greater impact, and therefore greater potential for harm, than a video. This would mean that a video that may receive an M rating would, if it were formatted into a computer game, receive an MA(15+) classification.

To recognise the classification scheme for computer games, the Publications Control Act 1989 is amended to introduce regulatory measures to restrict the display, hire, sale and demonstration of computer games. There will be four classification categories and a refused classification status. The categories, which broadly reflect the film and television categories, are:

G - General, suitable for all ages;

G(8+) - General, recommended for children 8 years and above;

M(15+) - Mature, recommended for persons 15 years and above;

MA(15+) - Mature audience, suitable only for persons 15 years and above where there is restriction on the sale, hire and demonstration of such games; and

Refused classification.

Computer games will be treated in a similar manner to films and videos under the Publications Control Act 1989, with requirements to display markings, regulation of sale, hire and display of games, and restrictions in relation to the advertising of games.

Madam Speaker, because of the concerns surrounding the impact of computer games, the Government has resolved, in relation to the MA(15+) computer games, to prescribe that such games cannot be demonstrated in a public place - this includes exhibit, display, screen, play or make available for playing - unless the game bears the determined

markings and entry to the place is restricted to adults or minors who are in the care of a parent or guardian. The ACT has joined with all other Australian jurisdictions in supporting the ban on X(18+) and R(18+) computer games. Some may say that there is an inconsistency between the banning of X(18+) and R(18+) computer games and the allowance of X- and R-rated videos. We took the view that, because of the possibility of bulletin boards, there may be a certain pointlessness in the exercise; but we are prepared to go along with it.

It is believed that the serious concerns expressed about the harmful effects of the interactive nature of these games justify the difference in treatment. I still have some reservations about the effectiveness of such a ban and I will continue to monitor the situation to try to ensure that such material is not available illegally. Modern technology and the use of so-called "bulletin boards" mean that it is virtually impossible to stop anyone with a personal computer and a telephone from accessing this type of material, even from outside Australia.

Those involved in the computer industry may say that the compulsory nature of the scheme is too onerous a requirement to impose on their industry. This same issue has been raised with my colleagues from other jurisdictions, and the consensus was that it is necessary to enact a compulsory scheme to provide for certainty and to enable the scheme to operate effectively. It is worth emphasising that the scheme is about protecting people, and children in particular, from offensive or disturbing material. It should be noted that the computer games scheme outlined is an interim scheme only. In due course, it will be encompassed by a proposed new national censorship scheme, endorsed by the Standing Committee of Attorneys-General, which will deal with all censorship material and replace the existing cooperative scheme, which does not cover all States and Territories.

The new Commonwealth classification Bill, which replaces the Classification of Publications Ordinance 1983, has already been introduced into Federal Parliament and will require complementary uniform enforcement legislation to be enacted by all the States and Territories. This legislation is currently being drafted, and it is envisaged that the new national scheme will commence at some time in the second half of 1995.

It is expected that there will be some definitional differences between the interim scheme and the new national scheme. The changes concern the definition of "computer games". They will serve to expand the definition of "computer game" to cover the direct transfer of film or video to CD-ROM without any alteration to the film or video and will also ensure that material such as the Channel 9 *Sex* series, which is being formatted as a sex education tool, can be made legally available on CD-ROM. These changes are necessary because of the possibility of being able to obtain, say, an R-rated film on video but not being able to obtain that same film if it were transferred to CD-ROM format. In respect of the *Sex* series, we might have had a situation where a program which was shown on prime time television could not have been seen and used in a CD-ROM format because of the more restrictive approach being taken to computer game formatted material.

Timing did not allow the inclusion of the new definitions in the interim scheme, which relies on the amendments to the Classification of Publications Ordinance 1983 which have already been enacted. Madam Speaker, included in this legislation are amendments to the penalty levels of existing provisions in the Publications Control Act 1989. This has been done so that the new provisions which are created to enforce the classification of computer games are not out of step with the existing penalty levels in the Publications Control Act 1989, which are much lower and do not reflect current monetary values. They have recently been the subject of some controversy in relation to some prosecutions. I commend the Bill to the house and present an explanatory memorandum.

Debate (on motion by Mr Humphries) adjourned.

CONSERVATION, HERITAGE AND ENVIRONMENT - STANDING COMMITTEE
Report on Feral Animals and Invasive Plants

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

That the report be noted.

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning) (11.14): Madam Speaker, I present the response to the report of Mr Moore's committee. I thank members of the Standing Committee on Conservation, Heritage and Environment, as well as the committee secretariat, for the effort they have put into preparing the report on feral animals and invasive plants in the ACT. I am sure that the report will assist in highlighting the seriousness of the problems that face the ACT and the wider Australian community in dealing with those plants and animals that are degrading the natural environment.

The Government is supportive of most recommendations made in the report. Many of the recommendations reinforce current Government policies and directions and recognise the considerable effort and achievements made in this area by the ACT Parks and Conservation Service. I applaud the committee's consultative approach to the development of the report, including the release of a public discussion paper late in 1993 to maximise community input and understanding. Broader community support for directions taken in the control of feral animals and invasive plants is essential to ensure an integrated and effective control program. It is also pleasing to see a pragmatic approach being taken by the committee, based on community input to the inquiry, prevailing knowledge of the issues, and the best use of resources to deal with the problems.

The report makes a series of recommendations to minimise the effects of feral animals and weeds on the environment, including a package designed to minimise the perceived effects of wandering cats on the ACT's native fauna. The report contains 29 recommendations, broadly grouped into the following areas: Pest sources; the role of the ACT pet and plant retailing industries; rural lessees funding and taxation benefits for pest animal and weed control and eradication programs; cat management; regional and intra-ACT cooperation; concerted weed control; and kangaroo management. Many of the standing committee's

recommendations are part of ongoing Government activity or complement existing strategies. Others, such as a review of kangaroo management in rural areas, are already the subject of Government actions, and the standing committee's recommendations will be taken into consideration in formulating a Government position.

With respect to cat management, an integrated package is supported. However, the Government firmly believes that an analysis of the research this Government is currently funding on the impact of cats on native fauna in the ACT and a review of measures implemented elsewhere are critical prior to the implementation of a costly cat registration system. This Government also considers that an understanding of community views on cat management is important in the development of legislative, as well as educative, approaches to responsible cat ownership. It is therefore proposed to undertake a community survey on this issue in mid-1995. The ACT Parks and Conservation Service will develop by the end of 1995 an issues paper on cats which will include the results of the community survey.

On the broader issue of pest plant control, an ACT weeds strategy is to be developed in 1994-95. The preparation of this strategy is being jointly funded by the Commonwealth, through a save the bush grant, and the ACT Government. This strategy will form the basis of an integrated approach to weed management for the next decade. The findings of the standing committee will be extremely valuable in the development of this strategy.

Madam Speaker, in concluding my statement on the Government's response to the standing committee's report on feral animals and invasive plants, I would like to thank the committee for their obvious interest in this issue, which indeed is an issue for the whole community to address, and the effort the committee has put into the development of the report put before us in March this year. I table, for the information of the standing committee and Assembly members generally, a more detailed Government response to the report.

Debate (on motion by Ms Ellis) adjourned.

EUTHANASIA - SELECT COMMITTEE
Report on Voluntary and Natural Death Bill 1993

Debate resumed from 14 April 1994, on motion by Mr Moore:

That the report be noted.

MR CONNOLLY (Attorney-General and Minister for Health) (11.20): The Select Committee on Euthanasia made three recommendations: Firstly, that a suitably qualified pain management specialist be appointed to the public hospital services of the Territory; secondly, that the Voluntary and Natural Death Bill 1993 not be proceeded with and the order of the day for the resumption of the debate on the question "That this Bill be agreed to in principle" be discharged from the notice paper; and, thirdly,

that the chair of the Select Committee on Euthanasia be given leave to bring in a Bill for an Act to make provision with respect to the withholding or withdrawing of medical treatment and for related purposes in the form set out in Appendix D to the report.

In relation to recommendation No. 1, the Government agrees with this recommendation and has made funding available within the health budget for the appointment of a director of palliative care at Woden Valley Hospital. However, there have been some difficulties in recruiting a suitably qualified specialist to this position, given the previous uncertainties created by the debate on the establishment of the hospice. Now that the hospice is well and truly under construction on Acton Peninsula and the arrangements for the operating of that hospice are being put in train, I expect that there will be progress on that late this year or early next year.

In relation to the second recommendation, that the Voluntary and Natural Death Bill 1993 not be proceeded with, the Government agrees with this recommendation, and I note that the Bill was discharged from the notice paper on 11 May. The Government is aware that a great deal of genuine concern exists in the community on the issue of active euthanasia. Accordingly, the Government did not intend at this time to support those sections of the Voluntary and Natural Death Bill which provided for active euthanasia.

In relation to the third recommendation, that the chair of the Select Committee on Euthanasia be given leave to bring in a Bill, the Government agrees with this recommendation and notes that such a Bill was introduced on 21 April 1994, that the Bill addresses the common law rights of patients to refuse unwanted medical treatment and to receive pain relief, and that it also gives protection to health professionals who act in good faith in accordance with a patient's wishes. The Government considers that this Bill is a positive step in clarifying the law in the area of active medical treatment and looks forward to further discussions about the Bill's provisions when it is fully debated. I have a formal response to table.

MR MOORE (11.22), in reply: I point out to members that in rising to speak at this point I effectively close the debate, although the Medical Treatment Bill has now been tabled and therefore members who wish to comment on this matter will have a further opportunity to do so. I welcome the Government's response to the report and look forward to a continuation of that debate, which I hope will be brought on at the next sitting.

I would like to recall how important it was, as far as the committee was concerned, that a suitably qualified pain management specialist be appointed to the public hospital system in the Territory, in that we made that our very first recommendation. It was an issue that was brought to us by many people and we thought it appropriate that it be done in that way. I note the Government's response that there have been difficulties in appointing such a suitably qualified person, and I urge the Government to continue their efforts to find an appropriate person. I thank the Government for their positive response.

Question resolved in the affirmative.

LEGAL AFFAIRS - STANDING COMMITTEE
Report on Crimes (Amendment) Bill 1993

Debate resumed from 18 May 1993, on motion by Mr Humphries:

That the report be noted.

MR CONNOLLY (Attorney-General and Minister for Health) (11.24): This is the on-the-spot fines issue. In February 1993 Mr Moore introduced the Crimes (Amendment) Bill to provide for on-the-spot fines for a range of street offences. The Government indicated its support for the concept, as did the Opposition. It was referred to the Standing Committee on Legal Affairs, and Mr Humphries's committee conducted an inquiry, producing a report giving in-principle endorsement to the Bill but expressing reservations about cost, the kinds of offences that should be subject to on-the-spot fines, and the lack of standardisation in existing schemes. That inquiry proceeded in a comparatively short time.

Subsequent to that committee's report, I received quite extensive correspondence from the president of the ACT Law Society, Mr Clynes, and the Director of Public Prosecutions, Mr Crispin, QC, in which they both expressed very serious concerns of legal principle about the appropriateness of infringement notices for street offences. Those concerns are such as to have persuaded the Government that the Crimes (Amendment) Bill should not be looked at in isolation but would be more appropriately considered by the Community Law Reform Committee in its current inquiry on public assemblies and street offences.

I wrote to both Mr Moore and Mr Humphries, enclosing copies of those quite serious issues raised by Mr Crispin and Mr Clynes, and put the view that further action on the Bill should await that separate exercise. Mr Moore has indicated that he would prefer to proceed and Mr Humphries is considering his position. Therefore, the Government has decided that it is not appropriate to support Mr Moore's Crimes (Amendment) Bill at this time and that it is preferable to await the outcome of the Community Law Reform Committee's current inquiry into public assemblies and street offences. In the meantime, the department will continue to work with other agencies to ensure standardisation of existing infringement notice schemes in any future schemes.

This does raise an issue, which I am not sure that we formally had to consider before, where an Assembly committee goes off and does a reference and takes evidence and then reports; and after the report is received quite important or significant new issues are raised. It is unfortunate that Mr Crispin and Mr Clynes did not write their letters in time to get the letters to Mr Humphries's committee, because I think they would have had a significant impact on that committee. We do not really have a procedure for committees to go back and consider fresh evidence, and perhaps we would not want to do that. One could imagine that some committees would become quite interminable if that were the case. The Government is not trying to duck-shove this. It is genuinely saying that it still sees merit in the principle; that it read with interest the views of the committee, but then received quite substantial and in-principle arguments from both the Law Society and the DPP, which it has conveyed to both Mr Moore and Mr Humphries; and that at this stage it will not be supporting the Bill.

MR HUMPHRIES (11.27), in reply: I note the comments of the Attorney-General. The issues that are contained in the Bill have not been traversed in this debate and, therefore, I do not propose to go back over them. I will deal briefly with the question of how we proceed in circumstances where, as the Attorney has indicated, a committee report has been brought down and significant new evidence has come forward to the Assembly or to the Assembly committee, or to the Government, which might tend to suggest that issues should be re-examined as a result of that evidence coming forward.

Mr Deputy Speaker, I accept that those things will happen from time to time. I also understand that the Government must have certain prerogatives about engaging in inquiries or examining issues separately from the Assembly. The concern I have about the approach suggested by the Attorney is that there is a process here that is subject to Government direction, to some extent at least; that is, the Community Law Reform Committee's considerations are generally, if not exclusively, initiated by the Government. In those circumstances, there will clearly be some capacity by the Government to set the direction and to determine the priority of issues that are being considered by bodies such as that.

I would be reluctant to see issues that have been taken up in the Assembly subsumed by Government processes in such a way that they might cut across or redirect those sorts of inquiries being initiated in the Assembly. I accept that from time to time the Government will not be happy with particular inquiries or wish them to proceed; but it is important, nonetheless, that the Assembly's processes be given, I think in general terms, priority in these circumstances.

Mr Connolly: I would be happy for your committee to reconsider it with the Crispin and Clynes material.

MR HUMPHRIES: The Attorney indicates that he is happy for the committee to reconsider it. The issue I was raising was the way in which the other inquiry into public places behaviour had come about. I think the issue is one that has to be sorted out. I am not entirely sure how it should be sorted out. I simply note my concern that in all cases the Assembly's processes should, in general terms, take priority; but I am prepared to accept that that is subject to some further exploration and perhaps some qualification of circumstances.

I am going to consider the position of Mr Moore's Bill and indicate to my colleagues in the Liberal Party whether we should support proceeding with that legislation. We do, in general terms, see merit in it; but we acknowledge that there are difficulties. We also acknowledge the further issue of whether the inquiry being conducted, to which the Attorney referred, ought to be allowed to complete before we proceed in this Assembly. That is where I think the Assembly as a whole should leave it.

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 5 of 1992

Debate resumed from 15 September 1993, on motion by Mr Kaine:

That the report be noted.

MS ELLIS (11.31): Mr Deputy Speaker, I rise briefly to address this issue. The initial report from the PAC was presented by the chair, Mr Kaine, in September of last year. I believe that the Government has presented its response to that report. Many of the issues that were addressed in the PAC's report related to the Auditor-General's report No. 5 of 1992. Quite an amount of time has gone by since then. I find it interesting that some of the content of both the Auditor-General's report and the PAC's report referred to things like accrual accounting. The PAC grasped that issue with quite an amount of enthusiasm. As the Assembly may recall, it visited New Zealand in the last few months to look at that very issue. In the meantime, I am aware, as a member of the PAC and as a member of this place, that quite an amount of work has been done within certain agencies of the Government in relation to the adoption of accrual accounting. That issue is proceeding.

We are also aware, through both the estimates process and subsequent PAC processes, that the comments regarding budget presentation or budget paper outcome presentation have been worked on and many improvements have been made. I am of the view, given the time that has passed since both the tabling of the PAC's report and the tabling of the Government's response, that many of the things that were of concern in the initial Auditor-General's report, were brought to the PAC's attention and were included in our report have been addressed or are in the process of being addressed. I understand that the most recent Auditor-General's report that has been brought down in this place is the current version of this one. Obviously, the PAC is going to have an opportunity to revisit and to do a check on exactly where the corrections that were suggested by both the AG and the PAC are up to within the Government process. I know that the Government has taken the suggestions of the Auditor-General and the PAC in a proper manner, in most cases, if not in all. It is the role of the PAC to adopt a monitoring role and to see that those corrections and improvements to the systems continue. I know from the work that the PAC has done in the past that that will probably be done very quickly, and I will be happy to be part of that. That is all I need to say today, Mr Deputy Speaker, except to mention that it is a bit of a pity that, because of the programming, these things take so long to come to fruition in this place.

MS FOLLETT (Chief Minister and Treasurer) (11.34): I would like to refer initially to the Government's response to report No. 5 of the Standing Committee on Public Accounts. As Ms Ellis has said, this report was submitted nearly a year ago now. It was concerned with budget presentation and aggregate financial statements. I would like to address those two issues, just very briefly.

On the budget outcome presentation issue, the recommendations of the PAC and also of the Auditor-General were implemented with the presentation of the 1993-94 and 1994-95 budgets. The budget has been presented on a cash basis in a format that is consistent with the Auditor-General's findings. Budget Paper No. 2 addresses the Auditor-General's

concerns by providing consolidated information on all transactions within the Territory public account. All of the Government information reporting is also included in Budget Paper No. 2, consistent with government finance statistics concepts. Further improvements in uniform presentation of government financial information will become evident in 1995-96 when full GFS reporting is implemented. While no comparison of outcome to estimates was possible for the 1994-95 budget papers, as was recommended by the Auditor-General, an initial outcome statement was provided in August, and further documentation, as I have said before, will be provided to the Assembly in September.

I would also like to comment briefly on the question of aggregate financial statements and the move towards accrual accounting. I previously advised the Assembly that the Government recognises the potential benefits in financial disclosure and program management that are associated with the progressive move towards the introduction of accrual accounting. This initiative provides significant opportunities for the ACT to develop an improved financial management environment aimed at meeting our own specific requirements.

The Appropriation Bill that is presently before the Assembly and last year's budget included additional funding aimed at bringing these reforms on line at the earliest possible opportunity. It is a quite significant upgrading task, so we needed to make provision for the resources that would be required. The ACT Treasury, together with all of the ACT Government Service agencies, are presently developing these concepts through a series of workshops which deal with financial reform and the practical implementation of both accrual reporting and accrual management. I anticipate that very shortly the Government will be considering a detailed timetable for the introduction of both accrual accounting and overall improvements in financial management. At that point I will provide the Assembly with a more detailed outline of the directions of the Government's proposed financial reforms.

MR KAINE (11.37), in reply: Mr Deputy Speaker, this particular Auditor-General's report dealt with some very significant matters in terms of accountability. He made a number of comments indicating that in his view the current method of accounting and reporting used by the ACT Government is inadequate because it simply does not present a full and complete picture of the financial transactions of the Government, its solvency or otherwise, a full statement of assets and liabilities and the like - things which can be done and which are being done elsewhere. For many decades there was an argument that it was inappropriate for government to do these things, and that government could not do it because of its particular requirements in terms of its own internal accountancy. That has been demonstrated to be patently untrue. I think that the Public Accounts Committee accepts the Auditor-General's comments as being legitimate.

Admittedly, the Government has begun to move towards adopting some of these things; but we were concerned about two things, and I would like to reiterate them. We were concerned, first of all, that there did not appear to be a great deal of commitment on the part of the Treasury to move towards the resolution of the issues that the Auditor-General had raised. In fact, we said this at paragraph 2.8 of our report:

The Committee is concerned that Treasury appears to exhibit a certain lack of enthusiasm and is not acting as a catalyst for change within the ACT Government Service.

We were relating to these things that the Auditor-General had dealt with. We were also concerned about the timetable. At paragraph 2.4 we said:

Overall, the Committee was disappointed by the findings contained in the response by Treasury to the Audit Report, and what it perceives as the outlook for further improvement.

In other words, they did not seem to be particularly keen to move along too rapidly in dealing with some of these issues. We made that point also specifically in connection with accrual accounting. There has been a lot of emphasis on accrual accounting, but one of the things that I have been at pains to try to point out is that accrual accounting is not really what we are talking about. We are talking about a total change in attitude and a total restructuring of the way that government maintains its accounts and reports. Accrual accounting is one almost minor aspect of it. In connection with accrual accounting, in particular, which the Auditor-General commented upon, our comment at paragraph 5.8 of this final report was:

The Committee is disturbed to note that the submission puts the expected compliance date with the proposed accounting standard for public sector departmental reporting as being four to five years away ...

We do not understand why, when there is a draft accounting standard, it cannot be implemented much more quickly than four to five years hence. That indicated to us that there is no great commitment on the part of the Treasury to doing what governments elsewhere have done already in improving the way that they maintain their internal accounts and then report to the legislature and, of course, through it, to the general public.

Those concerns still remain in my mind. This is very much a current issue. It is in no way completed by the Auditor-General having written a report on it and the Public Accounts Committee having reviewed that report. Members will know that the Public Accounts Committee visited New Zealand, which is at the forefront of this kind of change, to see how it works there and how it was accepted by the business community, the public, the welfare sector and the like. For my part, I was most impressed with how far the New Zealand Government had moved and the fact that there was 100 per cent acceptance of the changes that had been made. That indicates to me that there is scope for considerable change here.

The Government, I submit, ought to be looking more closely at what has been achieved in New Zealand. It was initiated, I might say, by a Labour government; so there should be no ideological problem on the part of the Government with what has happened over there. I am not saying that everything that was done was good. We were looking specifically at the public accounting aspects of what they have done; but the nature of the restructuring, which was fundamental to it all, seems to me to be something that we could look at.

If the Government would open its mind and go and see what is done elsewhere, it may learn a great deal, and it may then be more open to the kinds of changes that the Auditor-General was speaking about in his report. I think that it is beneficial change. We are too slow in implementing it, and I would like to see a much more proactive role being played by the Treasury. The Auditor-General has taken the lead; he has made the points. That should, in my opinion, point the Treasury and the Government in some directions. The Public Accounts Committee will continue to review these matters and to press for their implementation. We would like to see change much more quickly than it is occurring.

Question resolved in the affirmative.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 10 of 1993

MR KAINE (11.43): Mr Deputy Speaker, I present report No. 9 of the Standing Committee on Public Accounts entitled "Review of Auditor-General's Report No. 10, 1993 - Family Services Sub-Program". I move:

That the report be noted.

This report has to do with Auditor-General's report No. 10 of last year on an audit of the family services subprogram. The Auditor-General concluded, in general terms, that the branch was effective in achieving its objectives; that it was using appropriate strategies; that resources generally were being used efficiently; and that the branch was characterised by strong professional performance. I would think that that is not a bad report for a branch to get from an auditor. The Auditor found that the range of programs appeared to be well managed, with a clearly structured client approach and well-defined procedures for staff supervision, support and development, and for continuing review of individual programs against objectives. However, and this is the one qualification, while the report noted that the branch has been reviewing performance indicators, it considered that many are workload indicators or are not relevant to the work being performed. The audit report suggested that indicators based on outcomes and impacts would be more meaningful.

This is a subject that is dear to the hearts of members of this Assembly. Comment has been made a number of times on the floor of this house, and in various committees such as the Estimates Committee and the Public Accounts Committee - almost everywhere - that performance indicators are not good enough. Here is the Auditor-General, in an otherwise excellent audit report, commenting to the effect that there is one area in which this organisation fails, and that is in performance indicators. I have to say that the Minister has advised the committee that he accepts the audit view, and he has advised that performance indicators will be redeveloped. I accept the Minister's assurance on that point. The committee believes that the Minister's advice is an appropriate response to the audit recommendations. I commend to the Assembly our report on the Auditor-General's report.

MS ELLIS (11.46): I just want to refer very briefly, as a member of the Public Accounts Committee, to report No. 9 by the committee. The family services subprogram, as we know, is an extremely important area of government administration. It was timely and correct that the Auditor-General look at it in the way that he did. The major areas of his examination covered management of the subprogram, review of the legislation, the relationship with non-government agencies, and other miscellaneous matters as they arose. The chair, Mr Kaine, is right inasmuch as the performance indicator area was an area of concern. Other than that, the comments made by the Auditor-General, the explanations and information supplied by the Minister to our committee, and the committee's consideration of that information, all came to the conclusion that, in very general terms, the family services subprogram was being administered and being delivered in a proper and correct fashion. I do not think it is unique to mention performance indicators, because they seem to be a continuing problem across many agencies within the bureaucracy. By the same token, they are being addressed uniformly. I think we need to look at that in the context of that statement. I join with Mr Kaine in commending this report by the PAC to the Assembly.

Debate (on motion by Mr Lamont) adjourned.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Reports Nos 8 and 9 of 1993

MR KAINE (11.48): Mr Deputy Speaker, I present report No. 10 of the Standing Committee on Public Accounts, entitled "Review of Auditor-General's Reports: No. 8, 1993 - Redundancies, and No. 9, 1993 - Overtime and Allowances". I move:

That the report be noted.

The two reports that the Public Accounts Committee's report deals with are, first of all, audit report No. 8 of 1993, which had to do with redundancies in the public sector, and report No. 9 of 1993, dealing with an audit of overtime and allowances. Both of those audits were instituted by the Chief Minister in response, I imagine, to public concerns that have been expressed on these matters, and the Auditor-General duly undertook quite comprehensive audits.

In connection with redundancies, I note that the Auditor-General concluded that the use of redundancies had been effective in reducing future cost to the ACT Government. That conclusion was supported by the findings that, between 1 July 1991 and 30 June 1993, 472 officers, or 2 per cent of the ACT Government Service work force, had accepted redundancy payments; that the payback period for such payments was less than one year; and that there was no evidence of any discernible alteration of the quality of the ACT Government Service work force or the delivery of services in consequence of that.

However, when the committee looked at the matters raised in the report we noted that the audit also found that there had been insufficient reporting on the outcome of the redundancy programs, and that the Legislative Assembly and the public were unable to assess whether the program had been successful in achieving the objective of reducing the recurrent costs of government. It recommended that action should be taken to devise a suitable form of reporting, and that this should be included in future budget papers. We thought that, when you see that number of people leaving the service by way of redundancy packages, the Assembly should be regularly acquainted with what is happening and what the consequences are for the budget of such a program of redundancy, particularly as this place has shown a great deal of interest in the redundancy process. There have been a number of debates on it.

The audit also noted one other aspect that I think needs to be remarked upon; that is, that officers whose positions have been identified as excess and who cannot be redeployed and who do not take voluntary redundancy remain with their agency and are paid by the agency. This means that the agency is unable to generate the savings of a restructuring that it might undertake. The audit suggested that a review of this process would seem to be desirable, and the committee agrees with that. We note also that this is an issue for Government policy in relation to the performance of each of the agencies, and we do not pretend to tell them how to go about doing it.

On the question of overtime and allowances, the audit found that there were some areas where overtime was paid on a regular basis when there appeared to be no genuine requirement for the overtime to be worked. That is a matter that has been commented on in this place on many occasions. The Auditor-General finally has found cause to comment upon it also. He referred later in his report specifically to ACTION buses and he said this:

ACTION management should pursue alternatives to the current award and work practices which allow drivers' work shifts to include significant components of paid non-productive time and paid overtime.

The matter is now before the Assembly in an official way, through an Auditor-General's report, and we hope that the Government will take heed of that. The audit recommended also, in relation to allowances, that the practice of paying all continuing allowances as part of salary be reviewed. Instances where continuing allowances are being paid when employees are on leave or are not actually doing the work for which the allowances are payable need to be identified and consideration given to eliminating the payments. Where disability allowance payments are not appropriate under the relevant awards, the payments should cease. Finally, the audit report recommended that an independent expert review should be carried out to ensure that disability allowance payments are made only for days and times when the necessary working conditions exist.

These comments by the Auditor-General would indicate, I think, a rather sloppy approach to personnel management. Allowances, overtime payments and the like are often made in circumstances where they are not warranted. We do not know how much that has cost the public purse over the years. The Auditor-General has identified them as problems.

The committee agrees, on the face of it, that these matters need to be looked at more closely by the Government, and they should be eliminated where they cannot be justified. I concede that there will be some cases where they can be justified; but this seems to be an area where the Government could set about achieving reductions in expenditure and, hopefully, through that, create a situation where the tax burden on our community is a little less and the costs of government are reduced. Mr Deputy Speaker, I commend the Public Accounts Committee's report No. 10 to the Assembly.

MS ELLIS (11.54): I concur with all of the comments made by the chair, Mr Kaine; but I would like to take this opportunity to draw the Assembly's attention to the second part of the inquiry, which was to address overtime and allowances payments. In the conclusion on page 10 of our report we say this:

The committee supports the recommendations made by the audit report. It notes that the matters identified by the audit leading to its recommendations are being addressed by the relevant agencies or that they have been rectified.

... ...

The committee accepts the position as outlined in the case of the Department of Urban Services, -

it was one participant in the inquiry -

but recommends that all agencies review practice with a view to paying allowances separately from salary where the mode of payment is not covered by Award provisions.

This inquiry was undertaken following the Chief Minister's request that both of these issues be looked at by the Auditor-General. He undertook an inquiry at her request and approached it in a very fair manner, as he always does. The issues were looked at thoroughly. In most cases where evidence or information was sought from the participant agencies, action had already begun as a result of recognition that there were some problems in the system. It is important to note that we say in our report that some of those instances had already been attended to or were receiving appropriate attention at the time of the publication of this report. I think, as the chair said, that the ongoing review process is a good idea. I am sure that, with that process, we will see a continuing improvement in this area of government administration.

Debate (on motion by Mr Lamont) adjourned.

LEGAL AFFAIRS - STANDING COMMITTEE
Report on Evidence (Amendment) Bill (No. 3) 1993

MR HUMPHRIES (11.56): Mr Deputy Speaker, I present report No. 6 of the Standing Committee on Legal Affairs, entitled "Report on the Inquiry into the Evidence (Amendment) Bill (No. 3) 1993", together with extracts from the minutes of proceedings. I move:

That the report be noted.

Members will be aware that some time ago - last year, in fact - the Legal Affairs Committee took on an inquiry into the question of unsworn statements by defendants in criminal trials in the ACT. That was on the advice that there was some view by the Government that this was an issue that needed to be addressed. Subsequently, the Government tabled the Evidence (Amendment) Bill (No. 3) 1993 and the inquiry then shifted to the Evidence (Amendment) Bill itself. The issue was a relatively simple one. It was the issue of whether it was in the interests of justice in the Territory that we continue to allow the use of so-called unsworn statements in criminal trials.

At the present time in the ACT it is possible for a person appearing in a trial in the Supreme Court for an indictable offence, that is, a more serious offence, to be able to present his or her defence in a number of ways. That person has the option of saying nothing. He or she cannot be compelled to appear as a witness in their own trial. Alternatively, that person can give evidence in the normal fashion and be examined and cross-examined as if he or she were an ordinary witness. The third option presently available is the option of the unsworn statement, whereby a defendant can make a statement from the dock. That statement is not interrupted by counsel for the defendant or the prosecution and it is not made on oath. The result is that the defendant is able to put a case without interruption or without further points of view being put during that presentation as to what exactly happened in those particular circumstances.

The institution of unsworn statements is an ancient one. The Attorney-General described it in his presentation speech as an obsolete vestige of nineteenth century legal history. I have to say that that was not quite true. The unsworn statements go back to the Middle Ages. The reason for these statements originally was that a defendant in a trial was assumed to be running a high risk that he or she would tell lies in order to save himself or herself from what was generally a very serious penalty, very often death, even for minor offences. It was felt by the courts of the land, many of which were ecclesiastic in nature, that it was better for a person not to perjure themselves and assure themselves of eternal damnation than it was for them to present the full case of what happened in a particular incident. So, for a very long time we had the anomalous position that a defendant was unable to speak in his or her own trial and had to sit silent while others spoke about what had happened in a particular incident. It was realised after a period of time that that was somewhat unfair, and the institution arose of allowing a statement to be made by the defendant, which was unsworn, on the basis that, since it was unsworn, the defendant could not perjure himself or herself and therefore, would be assured, despite their crime, of having at least the opportunity for eternal salvation.

Over a period of time defendants were allowed access to the right to give evidence on oath. I think this occurred in the nineteenth century. But the institution of unsworn statements remained because it was felt that in many circumstances it would be advantageous to a defendant to be able to make that statement without intrusion or interruption by the judge or magistrate or by counsel in the course of a trial. Until very recently, even until today, in a sense, unsworn statements have been viewed as a way of giving a defendant a capacity to defend himself or herself, in line with the ancient view that a trial should, wherever possible, give the benefit of the doubt to a defendant on the assumption that innocence is presumed in a case and that the system is geared around that protection of the position of the defendant while the trial is going on. It is a reminder, even today, of the maxim that it is better for nine guilty men to go free than for one innocent man to be convicted. That is why we have such institutions as unsworn statements. It is very much a part of the training of lawyers that unsworn statements and other things in a criminal trial be built in to ensure that that focus is on, exclusively, the position of the defendant and his or her innocence or guilt.

The Attorney-General made a fairly strong case in his presentation speech for its abolition, on the argument that this institution is anachronistic and archaic, and has been abolished in, at that time, most other jurisdictions in Australia, and today in all other jurisdictions in Australia bar the ACT. The Law Society made representations to the committee about this institution and argued, in the form of Mr Richard Refshauge, of the Criminal Law Committee of the society, fairly well for the retention of these unsworn statements. He argued that it was dangerous for the court to begin to merge the issues of reparation, compensation or consolation for the victim, or even retribution against a guilty party, into the process of the trial itself, and that, with a defendant necessarily being involved in the process of cross-examination in order to present his or her case, that may become an issue. He re-emphasised that the trial, under the present legal system, is solely to resolve the guilt or innocence of a particular party; that it is inappropriate for a defendant to be seen in any kind of adversarial relationship with the victim where the rights of the victim are juxtaposed to the rights of the defendant. It was argued, he said, that there should be no hint of a victim/perpetrator relationship between the victim and the defendant in proceedings before the court, as this would infringe that presumption of innocence on the part of the defendant.

It was also pointed out that a defendant ought to be able to present his or her case in the best way he or she possibly can. That would sometimes mean being able to make a statement without interruption. A suggestion was made by the Law Society, in the course of presenting this submission, that possibly a compromise could be worked out whereby a defendant would be able to make a statement from the dock without making it on oath but still be subject to some examination.

Madam Speaker, the committee considered this issue carefully and noted that other jurisdictions have abolished unsworn statements. It came to the view that, in general terms, it was inappropriate for the ACT to retain this institution of allowing defendants in serious criminal trials to be able to make an unsworn statement from the dock. We did recognise, particularly, that this has allowed some abuse of the process to occur; that it is not uncommon for defendants to make statements in the course of their unsworn statements which simply cannot be substantiated and, indeed, go further and denigrate prosecution or other witnesses in the trial.

This is a particularly serious problem with respect to rape trials and trials for sexual offences where, very often, defendants have made statements from the dock attacking the credibility or character of the prosecutrix, and where, effectively, there are very limited avenues for the prosecution to counter those kinds of statements. It does not need to be said that, apart from any offence and ill-feelings generated on the part of witnesses who are attacked in that fashion, it is also very clearly not in the interests of the trial to be unable to reach or to discover the truth in these matters. Clearly, the trial process does not and cannot result in the discovery of the truth where these sorts of unsubstantiated claims can be made from the dock and not addressed properly in the course of subsequent proceedings.

Therefore, Madam Speaker, the committee felt strongly that the institution of unsworn statements ought to be discontinued generally in the ACT. We recognise that there may be circumstances where individuals, nonetheless, might require some protection. The particular instance that was drawn to the attention of the committee, in this case by the Director of Public Prosecutions in a separate representation via me to the committee, was the position of Aboriginal defendants. It was suggested to the committee, for example, that in certain Aboriginal cultures it is sometimes either impolite or difficult for an Aboriginal person to reject or disagree with a forcefully made statement put to that person. In those circumstances it would be difficult for an Aboriginal defendant sometimes, in cross-examination, to be able to reject or to deny a strongly put assertion by prosecution counsel that was being placed before him or her.

I personally had some experience of that situation when I was in practice as a lawyer in New South Wales. I had the experience of cross-examining an Aboriginal witness on one occasion and I put to her, in the way that lawyers often do in the course of running a defence case, "You are making all this up, aren't you?". I had the surprising answer, "Yes", come back to me, despite the fact that she had given a completely different story throughout this particular cross-examination. I do not think, with respect, that that proved that she necessarily was lying; but it did prove, possibly, that there are some cultural issues, or ethnic issues, or even racial issues, which need to be borne in mind when cross-examination of a defendant in a criminal trial is taking place. As a result, Madam Speaker, the committee has recommended that, although unsworn statements be generally abolished in the ACT, there be a discretion conferred on the court to shield an accused person from cross-examination, either in whole or in part, where either the intellectual disposition or the cultural background of the accused makes this appropriate in the interests of justice and in the circumstances of the case.

Having made that recommendation, we acknowledge that it will not be an easy thing to place into legislation or possibly even for a court to administer. It does grant a considerable discretion to the court in circumstances where an accused might appear to be struggling or in difficulty in cross-examination, and it will be a matter of controversy, in circumstances where this discretion is exercised, as to whether it has been appropriately exercised or not. To completely remove that protection, Madam Speaker, I think, would undermine the legitimate interests of a defendant in certain situations in criminal trials, and we do need to make sure that, in the removal of the present right which defendants enjoy, they do not completely lose access to some protection against what can be very fierce, very horrendous cross-examination. I believe, Madam Speaker, that it is important for us

to examine this opportunity to remove the right, generally, to unsworn statements; but we should retain some residual protection where it appears to the court that that protection is appropriately offered. We also recommend a minor amendment to proposed new subsection 70(3). I will not go into the details of what that is about; it is explained clearly in the report.

It is a fairly momentous step, Madam Speaker, to recommend the abolition of these rights, notwithstanding the fact that they do not exist anywhere else in Australia at this stage; but we believe that, in the interests of justice, this is required. We also believe, I think it is true to say, although we have not recommended this, that the situation should be monitored to see how the abolition of these rights might affect the position of defendants in criminal trials.

MRS GRASSBY (12.12): I rise also to support the report. The abolition of unsworn statements is a progressive move to help take the ACT legal system into the twenty-first century. I congratulate the Minister on his move to do this. I consider it rather antiquated. When you look around the world there are only two countries that still allow unsworn statements, I understand from the Attorney-General, and they are Fiji and South Africa. I am quite sure that, with the new government in South Africa now, that will change. Because we were the only place in Australia that still had it, I thought it was time that this was changed.

During the hearings that we had on this Bill there were incidents brought up involving people of different ethnic backgrounds. It was pointed out to us that Aboriginals in the Northern Territory, when a direct question was put to them, such as, "Did you do this?", would admit to it. Therefore, that was a worry. One thing that came up when we spoke to VOCAL was the fact that a lot of people make unsworn statements. If you know the person and you know that they are a little illiterate or that they do not have the ability to write their statement, you find that the statement has been written by the lawyer. It is a very eloquent statement and could not possibly be the statement that they would make.

Our chairman brought up the case of a rape trial. I, as a woman, would find it very difficult if I charged somebody with rape and they made a very untrue unsworn statement about me and there was no way they could be questioned on it. I, as a woman, would find it very difficult that the jury could take it into account and could believe part of the statement. If a person makes a statement, I think they should be then questioned on it. Not to change this law would be a very serious thing for all Canberrans, but mostly for women. The people at the Rape Crisis Centre were very pleased to see the Attorney-General making this move. They felt that one of the most unfair parts of a rape trial was the fact that a woman could have an unsworn statement made against her and she had no way of questioning the person charged.

As our chairman has said, there are cases where Aboriginals and people of ethnic background may find it very hard, and therefore we have left it to the discretion of the judge. However, in most cases, these people are able to have legal aid. If they were going into court without legal representation I could understand this. As I say, as a woman I would find this very unfair. I think the report is very fair and the way it has been presented has given it a fair chance of acceptance.

The Law Society people were not very happy about this being abandoned; but, as somebody said when I made some inquiries about it, they make a lot of money out of this, and lawyers do not like to lose a way of making money. However, if it is unfair to the victim, I think it should be changed. I would like to say also that this was put very clearly to us by VOCAL. I felt that the case they put to us was very good.

I would like to thank Helen, the other member of the committee. I understand that she is not going to be speaking because she has lost her voice. She is going to adjourn the debate. Helen came up with some very good points. I also thank the chairman. We had a few secretaries; but I would like to thank the last one, Russell Keith, who had to put the report together in the end. He had to gather a lot of material together because, as you can see, we had quite a few secretaries along the way. I am not quite sure what happened - whether they did not like the three of us, or whether they just went to greener pastures.

Mr Connolly: Just the chair.

MRS GRASSBY: The Attorney-General tells me, "No, that is not true; it was the chair".

Mr Cornwell: Some of us are nodding.

MRS GRASSBY: I think we all probably have to take the blame, if that is the case. It did take a while for this report to get to the house, but I am very glad that it did come in. As I say, I would like to thank the other members of the committee and our last secretary, Russell Keith, for the hard work he had to do to find everything from the past and to put it together. It has been a long time coming.

Debate (on motion by Ms Szuty) adjourned.

ADMINISTRATION AND PROCEDURES - STANDING COMMITTEE
Report on Members' Staffing - Consultants

MADAM SPEAKER: Members, I present, for your information, a report of the Standing Committee on Administration and Procedures entitled "Members' Staffing - Consultants".

PUBLIC ACCOUNTS - STANDING COMMITTEE
Inquiry into Petrol Supply Arrangements

MR KAINE (12.17): Madam Speaker, I seek leave to move a motion regarding the report of the Standing Committee on Public Accounts on its inquiry into petrol supply arrangements.

Leave granted.

MR KAINE: Thank you, members. I move:

That if the Assembly is not sitting when the Standing Committee on Public Accounts has completed its inquiry into petrol supply arrangements 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.

Madam Speaker, when the committee took on this inquiry it set its own report date. We did so in the knowledge that the Minister wished to proceed with certain other actions on behalf of the Government. We tried to meet the deadline; but, unfortunately, a lot of evidence has had to be sifted. The report is currently being written. We do not expect it to take more than a few days. It probably will be completed while the Assembly is in recess, so we seek this approval.

Question resolved in the affirmative.

CONSERVATION, HERITAGE AND ENVIRONMENT - STANDING COMMITTEE
Inquiry into Beverage Container Recycling

MR MOORE: I ask for leave to make a statement regarding a new inquiry by the Standing Committee on Conservation, Heritage and Environment.

Leave granted.

MR MOORE: I wish to inform the Assembly that on 20 July 1994 the Standing Committee on Conservation, Heritage and Environment resolved to inquire into and report on beverage container recycling. The terms of reference of the new inquiry are:

(1) the feasibility of introducing a deposit refund system to encourage beverage container recycling in the ACT;

(2) the costs to both business and consumers of beverage container recycling;

(3) the implications of such a system for recycling programs currently in place;

(4) the applicability of the draft Container Recycling Bill presented by the Chair; and

(5) any other matters the Committee considers relevant.

Madam Speaker, I would like to draw the Assembly's attention to the fact that the speech that I am about to deliver largely has been prepared for me by a work experience student from Stromlo High who is working in my office this week. She was here for the Youth Parliament. It was through the Youth Parliament that she sought to do work experience. I know that many members have work experience students in their offices at times. I think it reflects just how competent young people are today and what a great education system we have that somebody in Year 10 can manage that.

The matter of the reintroduction of reusable beverage containers is certainly one which should be looked upon with a great deal of care. At face value it is a positive idea, with many advantages for both the public and the Government. Nowadays, the three Rs - reduce, reuse and recycle - come up quite regularly. However, out of these three Rs, only one seems to be getting the attention that all three should be receiving. Looking at these words, the one that seems to show its head most is recycle, the others being lost under the excitement of putting your cans in the colourfully attired bin. However, this should definitely not be happening. Those other two words were put there not just to make use of alliteration but to be taken heed of. One way of reusing and reducing waste is by reintroducing the reusable beverage containers. As the name suggests, this idea takes care of the first R, and, by doing so, takes care of the other two. By reusing the bottles, the amount of needed raw material and new containers is reduced. Also, by reusing the bottle, we recycle it. So there you have it - an idea which actually makes use of the other two Rs which are too often forgotten.

Beverage containers were made disposable in the 1970s. Previous to this change, beverage containers were reusable and therefore there was minimal waste involved. The customer, when purchasing their beverage, would pay a deposit on the bottle. Once they had finished with the container, they would return it to the place of purchase and their deposit would be refunded. The bottles were then returned to the manufacturer, who cleaned and reused the container, as happens with our milk bottles. People such as Mr Connolly and I, who grew up in South Australia, know when we go home that the system is used there. This change to single-use, throwaway containers has done nothing but damage the environment and put the consumer even further out of pocket. This is so because the increase in domestic waste has been significant and is having many detrimental effects on the environment. As for putting the consumer out of pocket, the fact is that nowadays, when you purchase your beverage, you are paying for the whole container as well, whereas if it were returnable this would not be so.

The environment is suffering a great deal at the moment. Anything which would help lessen the problem should be taken very seriously indeed. Why? The answer is clear. There is a responsibility on the twentieth century person, living in the world in the state that it is in, to make sure that they are actually helping to minimise the effect on

the environment. Moreover, when given the opportunity to introduce an environmentally friendly idea, they should do everything in their power to get help to get the idea into action. This legislation is one such opportunity which should not be put aside but should be looked at carefully and, if appropriate, put into practice as soon as possible.

Another reason why the reintroduction of beverage container deposits should go ahead is the fact that the manufacturers really ought to take responsibility for the disposal of their containers instead of leaving it to the Government to take it, which is an unnecessary financial burden and worry. If the companies had the responsibility on them it would be far more likely that something would be done with the containers instead of their becoming yet another environmental problem.

As far as this draft legislation is concerned, the Conservation, Heritage and Environment Committee are now calling for submissions and will be conducting public hearings in the near future. They will visit South Australia and New South Wales as part of their reference on the reintroduction of reusable beverage containers. South Australia already has implemented such legislation, and at the moment New South Wales is considering doing it. Some argue that the ACT needs to have the same legislation as New South Wales, and there are many obvious reasons for that. One problem identified is the scenario of a person who buys, say, 500 bottles in Queanbeyan without paying a deposit on them and then comes into the ACT and makes a profit from that purchase. There are other concerns and there are better and more ideal solutions, but perhaps in this case we ought to have the same legislation as New South Wales. These are the problems that will be dealt with in the committee, which is working on the terms of reference which I indicated earlier.

Sitting suspended from 12.25 to 2.30 pm

QUESTIONS WITHOUT NOTICE

Electricity Charges

MRS CARNELL: My question without notice is to the Chief Minister. I refer the Chief Minister to her statement in the Assembly yesterday regarding the corporatisation of the Snowy Mountains hydro-electric scheme from 1 July 1995. Chief Minister, is it not true that approximately 30 per cent of Canberra's electricity is provided by the Snowy scheme and is currently supplied at a significantly lower price than it would be from alternative sources, such as Pacific Power? Why have you not told the people of Canberra that, when our preferential deal with the Snowy scheme ends on 1 July, due to the corporatisation of the scheme, and supplies are then provided to the ACT at commercial prices, they are facing substantial increases, of as much as 10 per cent, in electricity charges from that day?

MS FOLLETT: Madam Speaker, I have, indeed, told the people of Canberra that, and I have done so on many occasions. Mrs Carnell will not remember, because I do not think she was around, that at the time the corporatisation of the Snowy scheme was first mooted the ACT had a struggle on its hands to get to the negotiating table on that matter. I was a part of that struggle, and I think that Mr Kaine was a part of it as well. The reason why we fought so hard to be a part of that decision making process was to try to protect the ACT's supply of electricity from the Snowy Mountains scheme. At the time, there were press releases put out - I am pretty certain that I put one out - which indicated that, if the ACT were to lose that preferential treatment, it could have an impact on the pricing of our local electricity. I might say that our pricing regime is amongst the best, if it is not the best, in Australia. So, Madam Speaker, it is wrong to say that I have not warned the community of this. I have done so on many occasions.

The reason why the Territory is not a part of that negotiating process is still not clear to me. The process is one that is taking place between the Commonwealth, New South Wales and Victorian governments. I know that at one time or another there has been a kind of agreement from Victoria and/or New South Wales that the ACT should enter into that negotiating process. The Commonwealth, however, considers that it represents the ACT and stands by what it perceives as its legal position to do that. The ACT has, formally and informally, contested that position. It is our view that the Commonwealth is a part of that negotiating process only because the ACT did not have a body which could represent it. The Commonwealth is there only to protect the ACT's interests. There is a liaison process that is continuing - Mr John Turner is the ACT official involved in that - but it is not the same as having the Government represented in that process. That is a matter about which I have continued to make representations, so far without success.

Why that is so important in the scheme of the electricity reforms that I spoke about yesterday is that the corporatisation of the Snowy scheme appears to be proceeding more quickly than other reform in the electricity industry. Once we have the national grid, the ACT will be able to negotiate nationally for the best deal for electricity from any source. It appears to me that the Snowy reforms are proceeding much faster than other reforms. For that reason, the ACT electricity supply could face an increase which we might not face were all the reforms to proceed concurrently. I have made that quite clear, Mrs Carnell. I know that a lot of other people understand it. The debate that was held over the early days of the Snowy scheme probably preceded your entry to the Assembly, and for that reason it might not be as clear to you.

MRS CARNELL: I ask a supplementary question, Madam Speaker. Chief Minister, is it not true that the corporatisation of the Snowy scheme will cost the ACT an additional $25m in increased supply charges for Snowy power? Even when the proposed national grid is in place, that will save only a maximum of $15m for the ACT. There will still be a $10m gap which the ACT will have to pay for. Will that be paid for by the ratepayers, or have you managed to do a deal with your Federal Labor colleagues for a compensation package?

MS FOLLETT: The detail of these issues falls more appropriately within Mr Lamont's portfolio than mine; but, as Mrs Carnell was talking, he has been advising me that the answer is no; that we are, indeed, negotiating on the whole of the electricity grid reform. Madam Speaker, if I were to ask Mr Lamont to provide a more detailed answer to Mrs Carnell's question, that would probably be useful for all members of the Assembly. I repeat what I said yesterday: I will continue to take up these matters with the Commonwealth. The Commonwealth is fully aware that there is a need for bilateral discussions on this matter. They are fully aware of my concerns over the uneven pace of reform in the electricity market. I would back my ability to get a good result out of the Commonwealth against the Liberal Party's any day.

MADAM SPEAKER: Mr Lamont, are you going to proceed with the answer?

MR LAMONT: I simply wish to add to the substance of the Chief Minister's response. The additional cost impost, because of the procedure that Mrs Carnell has outlined, to some extent, rests with reform associated with the New South Wales grid system. In case Mrs Carnell had not realised it, let me remind her that they are, in fact, a Liberal government. She appears, from a number of other things that have happened - - -

Mr Connolly: They are as close as a phone call away.

MR LAMONT: They are as close as a phone call away, and that has been proven repeatedly. One of the issues associated with the cost impost on the ACT resides fairly and squarely with the costs and reforms associated with the distribution system - not the generation system, but the distribution system - within the State of New South Wales. We have been saying quite clearly and unequivocally that no changes should occur until such time as we, as consumers, are able to take advantage of those reforms in the New South Wales system.

Mrs Carnell: The Chief Minister agreed at COAG. You know that she did. She agreed in February, and she agreed again last week.

MR LAMONT: Mrs Carnell, I would ask you, for once in your life, to listen. I know that you may not learn anything from it; but at least I can get it on the record where everybody else can see how much you do not know.

Mr Humphries: That is right; shout down your opposition.

MR LAMONT: I will say it once again, and even Mr Humphries may get to understand. The simple fact is that the pace of reform in the distribution industry, in the grid, within Australia will depend upon the pace of reform principally within the State of New South Wales. I have great concerns about the pace of that reform and, inter alia, the benefits that would then flow to us from a national grid system. So, to answer your point simply, we can be confident that we can reduce any cost impact of the process that you have outlined which is being considered for the Snowy only as long as we can achieve the pace of reform within the State of New South Wales, a Liberal dominated State.

Commonwealth Games - Aboriginal Flag

MS ELLIS: Madam Speaker, my question is directed to the Minister for Sport. Can the Minister advise the Assembly of the ACT Government's position in relation to the much publicised action by athlete Cathy Freeman at the Commonwealth Games in Victoria, Canada?

MR LAMONT: I thank the member for her question. Along with all right-thinking Australians, not only was I extremely proud, when watching the event, to see a representative of the cream of Australian youth being successful in international competition; but I was also proud, as an Australian, to see Ms Freeman exhibit the Aboriginal flag. I believe that that is a great testimonial to this country, a great testimonial to the tolerance of this country, and a great testimonial to the respect that we, as a country, rightfully pay to the original owners of this country. I believe that the sheer exuberance with which Ms Freeman has represented this country stands us in good stead for the future. I congratulate her for her win. I congratulate her for what she has been able to achieve on behalf of all Australians. I think that anybody who denigrates her achievements - whether they are in a position of authority or in a political position in this country - should be condemned by all 17 members of this Assembly.

Economic Priorities Advisory Committee Member

MR DE DOMENICO: Madam Speaker, my question without notice is to the Chief Minister. I draw the Chief Minister's attention to the sacking of the ACTTAB board by Mr Lamont in June for misbehaviour, pre-empting the release of the Pearce report on the VITAB affair. As the Chief Minister is aware, the Pearce report found that the ACTTAB board had acted with astonishing naivety. In the Chief Minister's own response to the report she noted that the dismissal of the board was needed to "ensure that the management of ACTTAB met the standard required of such an important public enterprise". As the Chief Minister is aware, one of the board members was Mr George Wason. I now ask the Chief Minister: In light of the damning findings of the Pearce report and her own remarks, why is Mr Wason still a member of the ACT's Economic Priorities Advisory Committee, a committee appointed by the Chief Minister herself? Does Mr Wason still have the Chief Minister's confidence with regard to the standard required by Ms Follett for managers of important public enterprises?

MS FOLLETT: Madam Speaker, it will probably come as news to Mr De Domenico, but it is a fact that the Economic Priorities Advisory Committee of the ACT does not run the TAB. They provide me with economic advice. I am sorry if his understanding of matters has not got that far; but that is very much the case. The action that was taken in regard to the ACTTAB board was taken against the board as a whole, and in eminently justified circumstances. By contrast, the advice that I have had from EPACT - and it is advice; it is not a body which is responsible for running a commercial-type entity, as is the TAB, which is another little distinction, Mr De Domenico - in my view, has always been well thought out, well considered and worth while putting before government.

In the particular case of Mr Wason, Madam Speaker, I have asked the ACT Trades and Labour Council to nominate a representative to EPACT, and he has been the representative whom they have nominated. They have had other nominees from time to time. As members will be aware, EPACT represents the coming together of business, union and community interests and the Government to discuss economic matters of importance to this Territory. I have always been satisfied with their advice. I have always found it to be even-handed. Indeed, you can see by the number of their recommendations that have been implemented by the Government that it is advice that I have taken.

MR DE DOMENICO: I ask a supplementary question, Madam Speaker. Noting that the Pearce report and the pre-empting actions of Mr Lamont were made because of the failure of that board to make a proper economic decision, which has put this Territory down the tube by at least $4m, will the Chief Minister say whether Mr Wason still has her confidence with regard to the standard required by her for managers of public enterprises? If not, will she make sure that Mr Wason resigns from all the positions that he holds? If he does not, will she sack him?

MS FOLLETT: Madam Speaker, I have played a straight bat to this question so far; but I do not believe that this continuation of the politics of smear and innuendo in any way does credit to the Assembly. It is quite clear that this is the tack which the Liberals are going to pursue. We have heard time after time this personal attack. It started with Mr Stan Aliprandi and Ms Cheryl Vardon. It has gone on through Mr Charles Wright and now Mr George Wason. Anybody and everybody are considered fair game by this mob of scum opposite, and I just do not think it is good enough. Madam Speaker, it is abundantly clear to anybody who has - - -

Mr Humphries: I rise on a point of order. Madam Speaker, I think you have disallowed terms much less virulent than "mob of scum". I think it is beneath this place, no matter what we feel about issues, to call other members by that sort of term. I would ask you to ask the Chief Minister to withdraw it.

MADAM SPEAKER: Chief Minister, I think it would be appropriate for you to withdraw that.

MS FOLLETT: I will withdraw it, Madam Speaker; but I will say that I regard as absolutely despicable the continued personal attacks being mounted by the Opposition on people who are not here to defend themselves. They have gone through one person after another, targeting them, getting them in their sights, and seeking to smear their character and besmirch their good name. It is absolutely despicable behaviour. It is an indulgence on their part which we, on this side of politics, have never had any part of. I hope that you will note that. Madam Speaker, I have absolute confidence in EPACT's ability and that of all of its members to discharge the terms of reference that I have put before them in a competent, very intelligent and very considered and balanced manner.

North Watson Development

MR MOORE: Madam Speaker, these days Mr Stevenson is a bit slower at getting to his feet. He is really going to have to work harder. I am sure that he will never reach the speed of Kieren Perkins. My question is to Mr Wood, the Minister for the Environment, Land and Planning. Would the Minister inform the Assembly of the date of auction for the land at North Watson and tell us how many blocks are to be auctioned in the first round? I point out, Madam Speaker, that I did mention to the Minister that I would be asking a question of this kind today.

MR WOOD: Madam Speaker, I am not sure what Mr Moore means by "auction" in this sense - whether he is talking about the bulk auction of land for private enterprise to develop or the auction of individual blocks. My answer will encompass both. I believe that this is a landmark for the ACT, as the development at North Watson returns us to the state we were in prior to 1988, when land development was done by the Government. We are getting back to that stage.

The budget has allocated $4.118m for infrastructure works; so the Government, and, therefore, the people of Canberra, will benefit from that activity. We will do the infrastructure work. Not long ago, advertisements appeared in local papers, calling for tenders from project managers to help us in that process. We do not intend to set up a large bureaucracy to do this work. There is expertise in project management out there in the private sector, and we will use that expertise. It is well under way now. I do not have for Mr Moore an actual date when it will move on; but it is going ahead at full steam. We want to move it as rapidly as possible. All the processes are finished.

I do not think I need to remind the Assembly of the significant benefits to the ACT. Members will recall the report which, I recollect, said that there is something like $8.7m in savings for us in developing North Watson, compared with developing greenfields sites. There is more than $7m in better cities program money. We are delighted to have that, and we are delighted to have the standards that are being set by the better cities program. We want to be ahead of that. We will acquire a financial asset by doing it in this way. As well as that, as I have said in the Assembly before, I believe that it is a benefit to people in that area. I acknowledge that not every one of them has recognised that. Part of it means that Monash Freeway is not going to run past their backyards. Instead of having Monash Freeway there, nearby residents will get a very wide park strip. The other significant change is that, instead of the potential for tourist-related development, they will get high-quality residential development.

MR MOORE: I ask a supplementary question, Madam Speaker. Minister, I refer to the Canberra land release draft program, which indicated that North Watson would have 600 sites released by October 1994. That is only two months away. Do you perceive that you will be able to reach that goal, when the servicing has not even started yet?

MR WOOD: No, I do not think we will reach that goal, and it is not our intention to do so. If Mr Moore had been following the house and land market in the ACT, he would have noticed that there is a quite large supply of land and houses on the market at the moment. There is probably a note on that program to say that the release dates are assessed as we monitor the need. We have discussed this issue, and we do not think that the community needs 600 sites to be released in October.

Mr Moore: When do you expect to start releasing them? That is what I am trying to find out.

MR WOOD: It will not be this year. That is all I can say.

Plain English Legislation

MR STEVENSON: My question is to Mr Connolly, the Attorney-General. It concerns Canberrans understanding the legislation as it is written. Recently, the Law Council of Australia stated that drafting legislation in simpler, plain English would lead to more people gaining access to justice. I quote from a recent article in the *Canberra Times* of 1 August:

Council president John Mansfield, QC, said he was hopeful new legislative measures would follow the lead of the Federal Government's Corporate Law Simplification Bill ...

Mr Mansfield said making the language in all parliamentary bills easy to understand would reduce the cost of using the legal system.

This morning the Workers' Compensation (Amendment) Bill was presented. I had a cursory glance at it. One of the clauses was a 58-word sentence. A Bill to do with the Magistrates Court also was presented. One of the sentences in it was 75 words long. I will not read it out, for obvious reasons. Also, the Fair Trading Bill, which is now an Act of the parliament, contained a 150-word sentence followed by a 175-word sentence. I know that we could say a lot of wonderful things about what we are doing to help Canberrans to understand the law; but, leaving all that aside, what is going to be done about helping Canberrans to understand the law and bringing justice into the ACT?

MR CONNOLLY: Madam Speaker, I was trying to work out the punctuation to see whether that was one sentence or a group of sentences. It was hard to tell. Mr Stevenson, I share a lot of your sentiments. There is an old homily that says, "I did not have time to write you a short letter, so I wrote you a long letter". It is often harder to get a precise legal meaning into a very short phrase. The art of legislative drafting is really all about that. Our style of drafting in the ACT is moving towards a better style, although there are occasions when, as you point out, quite long and

convoluted sentences are used. The Bill that we dealt with yesterday, which was part of a package of uniform legislation dealing with fairly complex stock exchange matters, was quite complex. We hope that we can improve on that in our own legislation here, as distinct from the uniform legislation.

Previously, in this Assembly, often after question time, I have introduced a number of papers to do with what we call our law review program, as well as our law reform program, which is introducing the new legislation. We are going through a process of reviewing all the ACT statutes, and from time to time we introduce legislation designed to tidy up, clarify and simplify. We are going through that exercise. It is not an easy exercise. It is a dilemma that confronts all States in Australia and all legislative draftspeople. It is very difficult to meet the competing needs of getting legislation simpler so that it is understandable and getting it precise.

On one view, you could pass a single Act which simply says, "Everyone shall be good". There would be no need for any other laws, because that simple phrase would encompass proper behaviour. We do have to be more precise. As you become more precise, you become more complex. It is a difficult challenge; but I do sympathise with your idea that we should strive for clearer legislative drafting. I think that is something that all members would strive for. The Scrutiny of Bills Committee often tries to help us in that area as well. So it is a sentiment that I think we all share.

MR STEVENSON: I wish to ask a brief supplementary question, Madam Speaker. Has the Attorney-General considered following the example of the Victorian Law Reform Commission, which did an admirable job in actually rewriting legislation? The difference is truly remarkable. Has he thought of setting up some sort of a group specifically to do that?

MR CONNOLLY: It is part of our law review process. Indeed, the Victorian report on plain English drafting sits on my bookshelf, as it does on David Hunt's bookshelf and, I think, on those of all of his drafters.

Burmah Fuels Contract

MR HUMPHRIES: My question is directed to the Chief Minister. Can the Chief Minister give the Assembly and the people of Canberra an unconditional guarantee that the negotiation of the contract between Burmah Fuels and the ACT Government was handled by her Government within the law and with due regard to the public interest?

MS FOLLETT: Madam Speaker, this is a matter which is before a committee. It appears to me also to be asking me to give a legal opinion, which I am not very happy about; but I can certainly answer to the best of my ability.

MADAM SPEAKER: You may not give a legal opinion, Chief Minister; that is simple. The legal opinion part of the question is out of order.

MS FOLLETT: To the best of my knowledge, the answer is yes.

Food and Wine Frolic

MRS GRASSBY: My question is to the Attorney-General. After this year's Food and Wine Frolic there were a number of complaints about the threat to public safety of the event. Is the Government intending to do anything to make next year's event safer?

MR CONNOLLY: The Food and Wine Frolic of the last 12 months is an outstanding example of a major public event that went badly wrong. Previously, we have had difficulties with some of these large outdoor events in Canberra. Summernats has had a chequered history, as has New Year's Eve in Canberra City. Last year we made a major effort - it involved police, Urban Services and other officials, and liquor licensing authorities - to ensure that Summernats went smoothly. That cooperative venture was very successful, and Summernats was a peaceful, well-patronised, successful public spectacle.

We put a lot of effort into a campaign for safer drinking in the city area on New Year's Eve. It was not a Bill Stefaniak inspired, get tough crackdown, with a heavy police presence. It was a very cooperative approach, involving liquor licensees, licensing inspectors, police, industry and Government working together. It was successful. On New Year's Eve last year, there were quite significant breakdowns of public order in a number of other major metropolitan centres throughout Australia.

I am confident that we can do the same with the Food and Wine Frolic. Clearly, this year's event degenerated into something of a bacchanal. The original intention of the Food and Wine Frolic was that local producers could display their foods and their wines and families could go out, enjoy sampling the products and enjoy the day. That has broken down. I know that a number of the local wine producers no longer take exhibit space at the Food and Wine Frolic because they believe that it no longer gives people a genuine chance to sample wines, as opposed to guzzling them.

I understand that American Express has expressed the view that they may not continue. One would hope that, if the organisers, with the very firm assistance of police and licensing inspectors, can get the act together, American Express may in future want to come back and be associated with a genuine public event, where food and wine are sampled in moderation and where people enjoy themselves. In this town in recent years we have had a track record of doing it well. The Food and Wine Frolic has tended to do its own thing in the past.

I can assure the house that we are in the process of getting a working group set up, bringing together police, licensing inspectors, Urban Services officials, people from Mr Wood's departments and all the organisers of the event, so that they can do to that event what we persuaded the Summernats organisers to do with their event and what we were able to achieve in Civic on New Year's Eve and, since then, with the Safer Civic program, the cooperative approach to public drinking. It would be a pity if we lost the event. I mean the event as it was intended originally. If the event were to continue as the drunken bacchanal that it has become, it would be no great loss if it did not proceed.

Medium Density Redevelopment Applications

MR CORNWELL: Madam Speaker, my question is directed to Mr Wood, the Minister for the Environment, Land and Planning. Can the Minister confirm that applications for medium density redevelopment currently in the pipeline for approval - including, for example, 13 Lefroy Street, Griffith; 52 Captain Cook Crescent, Griffith; and 11 Hunter Street, Yarralumla - will not be approved prior to the results of the three-month inquiry announced by him last Sunday?

MR WOOD: Madam Speaker, my statement last Sunday, on which I consulted with a number of people, expressed the intention that applications received from Monday of this week would be dealt with in terms of my consideration of the recommendations arising out of the inquiry. Applications that had been made, that had been with the planners before that, were not so included.

MR CORNWELL: I ask a supplementary question, Madam Speaker. I think you will admit, Minister, that your penultimate paragraph was a fairly convoluted explanation. Am I to assume, therefore, that those that were in the pipeline before Monday could, in fact, be processed and a decision reached prior to the inquiry's results becoming available?

MR WOOD: Yes, that is the case. I thought that it was quite clearly understood that existing applications, some of which go back for a month or two months, would be considered in terms of the then existing requirements. You need to understand that there is a lot of debate, indeed argument, between the Planning Authority and those who put in applications. Often applicants will make an ambit claim. They will seek more than is considered desirable. For example, today I had to convey, second-hand or even third-hand, I think, that what the planners wanted in respect of what one Yarralumla development would hold was not the number of units that the builder proposed.

You need to bear in mind that there is a great deal of discussion involved. Planners do not automatically accept what is put in front of them. Indeed, in recent times - in particular, over the last six months - they have been quite firm with builders, so that what they put onto sites will be only the very best. That process continues.

Mr Kaine: They cannot reject it if it fits within the guidelines, no matter what they think.

MR WOOD: If it fits within all the criteria, they cannot reject it; but bear in mind that there is some flexibility. We do have to consider amenity. It is a point that I am considering with respect to Banks. The planners are there to see that amenity, among other things, is not unduly disturbed.

Kippax Shopping Centre - Community Facilities

MR BERRY: My question is to the Minister for the Environment, Land and Planning, Mr Wood. A short time ago, there was some considerable interest in claims about the community facilities at the Kippax centre. You undertook to look into that matter, and I would appreciate it if you could advise us of what has been happening on the issue.

MR WOOD: Mr Berry and Mrs Grassby have been talking to me about the facilities at Kippax. The Belconnen Community Council also was interested, although I think their interest was sparked because they wanted anything other than some units being built out there. We have organised a timetable now, and the Kippax task force is in place. At a recent meeting, agreement was reached on a process and a timeframe. Further meetings are scheduled. The process will identify the good and bad things about Kippax and will develop those issues with a short- and long-term future. The study will examine what additional facilities may be needed and what is a realistic timeframe for their provision.

The community has already identified the need for some facilities. The process will determine whether they are needed, and, if so, what the longer timeframe will be. Workshops involving the community will be held at Kippax. The community includes the residents, local businesses, the community council and particular interest groups. Information from the workshops will be reported to the community, and follow-up meetings will be held early in the new year.

The methodology used in the process will be open and transparent, and will inform well both government and the community. The process is following the model successfully used to develop the Gungahlin Town Centre draft variation. I think all members were praising that process. The Government is committed to proper consideration of community views, and it responds positively to residents' concerns on these issues.

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

ACTTAB - Contract with VITAB Ltd

MS FOLLETT: Madam Speaker, yesterday Mr Kaine asked me a question about "some answers to possible questions that might come up in this house" in relation to VITAB negotiations. He asked me on what date I had first received those answers to possible questions on that subject. In a supplementary question he then asked whether I would table the documents. Madam Speaker, during a speech by Mr De Domenico in the MPI debate yesterday it became apparent to me that Mr Kaine's question referred to a document identified as the result of a freedom of information request by Mr De Domenico and to which he had been refused access. The document was described in the response to the FOI request as a "draft PAQ for CM".

Madam Speaker, when I investigated the matter yesterday, I found that the document concerned was, indeed, a draft, provided by one department to another for comment, of some briefing they were considering providing to me. As members who are familiar with the public service would understand, this sort of consultation and discussion occurs quite

frequently between officers. As it turns out, I did not see that document. It was not provided to Mr De Domenico under FOI because it falls into a class of documents which are specifically exempt under the Act. The Act provides for the exemption of deliberative documents, for precisely the reasons we saw demonstrated in the chamber yesterday. If working drafts or other deliberative documents were made available, it would be quite possible for them to be misinterpreted or seen out of context. Indeed, they would also be open to deliberate misrepresentation.

Madam Speaker, I should also say that, for a long time, a convention has been followed that briefing to Ministers on possible parliamentary questions remains confidential to the Minister concerned. That convention has been followed in this place by Ministers - from both sides, I would say - who have refused to table their briefing material. I do not propose to change that convention now by tabling the draft of a briefing note; but, in view of the possibility that the contents of the document will be further misrepresented, I am prepared to show it to the Leader of the Opposition and to Independent members.

Residential Development

MR WOOD: Madam Speaker, on Tuesday Mr Cornwell asked me a question about dual occupancies in Banks. I have a short answer; but I would rather not give it today. I am seeking a legal definition, so that I can be absolutely sure that I am right. That will take another day or two. I would ask Mr Cornwell to be patient.

TEMPORARY DEPUTY SPEAKER

MADAM SPEAKER: Members, I wish to inform you that, pursuant to standing order 8, I have nominated Mr Stefaniak as a Temporary Deputy Speaker. He will take the chair when requested by either me or the Deputy Speaker. Mr Stefaniak takes the position which was vacated by Mr Westende on his resignation. I present my warrant nominating Mr Stefaniak.

AUDITOR-GENERAL - REPORT NO. 6 OF 1994
Inter Agency Charging and Management of Private Trust Monies

MADAM SPEAKER: I present, for the information of members, Auditor-General's report No. 6 of 1994, "Various Agencies - Inter Agency Charging, and Management of Private Trust Monies".

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

That the Assembly authorises the publication of Auditor-General's report No. 6 of 1994.

PUBLIC ACCOUNTS - STANDING COMMITTEE
Report on Review of Auditor-General's Report No. 5 of 1993 - Government Response

MR CONNOLLY (Attorney-General and Minister for Health) (3.09): Madam Speaker, for the information of members, I present the Government's response to the Standing Committee on Public Accounts report No. 8 of 1994 on the review of the Auditor-General's report No. 5 of 1993 in relation to visiting medical officers. I move:

That the Assembly takes note of the paper.

In August 1993 the Auditor-General presented to the Legislative Assembly report No. 5 on visiting medical officers. The report addressed the management and control of payments to visiting medical officers in the ACT public hospital system, and examined the terms and conditions under which the payments are made. The Department of Health, together with Calvary Public Hospital, prepared a response to the Auditor-General's report for the Public Accounts Committee, and that was considered by the committee at a public hearing in November of last year. Following consideration of the report, the committee's report on the review of the Auditor-General's report was tabled on 21 April. It provided a comprehensive coverage of the issues raised and made seven recommendations.

The Department of Health and Calvary Public Hospital have noted the recommendations made by the Public Accounts Committee, and have implemented the recommendations or are currently taking action to implement them. The recommendations support the requirement that claims and attendances made by visiting medical officers and rostering arrangements at both hospitals be verified. The committee's recommendation concerning the prevention of potential fraud has been acted upon by the Government with an amendment to the Health Act which passed this place with the support of both sides. The Government has also taken the opportunity in its response to the report to provide clarification of information contained in the report concerning calculation of VMO rates of pay.

Paragraph 4.14 of the committee's report refers to paragraph 4.17 of the Auditor-General's report, where it is stated, in relation to sessional rates of pay for VMOs:

The current rates represent an increase of about 35 per cent over the rates agreed in 1987. Since 1987 the CPI has increased by approximately 36 per cent and average wages and salaries by 31 per cent.

It should be noted that, in April 1994, the Department of Health provided to the arbitrator for the case regarding the new VMO contracts written evidence of a recalculation of information contained in that paragraph. The department found that when it calculated increases to sessional rates of pay for VMOs, using the rates for sessional VMOs at the senior specialist level, the increase in VMO rates of pay was, in fact, 40 per cent to

December 1992, the date used by the Auditor-General. The increase to December 1993 was 45 per cent. That is, VMO increases were in excess of those achieved by ordinary workers. These rates were confirmed by ACT Treasury. This showed that visiting medical officers achieved increases of at least 10 per cent more than ordinary workers' wage rates.

The committee's recommendations lend support to improving the management of payments at our public hospitals, and also lend support to the Government submissions made to the arbitrator in the visiting medical officer contract case. We are, of course, awaiting that arbitration.

Debate (on motion by Mr Kaine) adjourned.

LEAVE OF ABSENCE TO MEMBER

Motion (by Mr Berry) agreed to:

That leave of absence from 4 to 13 September 1994 inclusive be given to Ms McRae.

APPROPRIATION BILL 1994-95

[COGNATE PAPER:

ESTIMATES 1994-95 - SELECT COMMITTEE - REPORT ON THE APPROPRIATION BILL 1994-95]

Debate resumed from 16 June 1994.

Detail Stage

MADAM SPEAKER: It is an order of the Assembly that this order of the day be debated concurrently with the report of the Select Committee on Estimates 1994-95. In debating order of the day No. 1, members may also address their remarks to order of the day No. 15, Assembly business. We are up to the detail stage of the Appropriation Bill. Standing order 180 sets down the order in which this Bill will be considered; that is, in the detail stage, the Schedule must be considered before the clauses and, unless the Assembly otherwise orders, the Schedule will be considered by proposed expenditures in the order shown.

Schedule - Part II - Detailed Appropriations

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (3.14): Madam Speaker, I rise to make a couple of comments in relation to the issues that have been raised as part of the Estimates Committee report on the Appropriation Bill 1994-95. First of all, I want to refer to the questions raised in paragraph 4.92 relating to rental bonds. I think that Mr Cornwell needs to reread the transcript of the Estimates Committee and what that section was referring to, in order to reacquaint himself - - -

MADAM SPEAKER: I am sorry; there has been an element of confusion on my part, Mr Lamont. We have to go through this division by division. Does the speech you wish to make refer to Division 10, the ACT Legislative Assembly? There is no question before the house.

Ms Follett: I raise a point of order, Madam Speaker. The question before the house surely is: That the report of the Select Committee on Estimates be noted.

MADAM SPEAKER: No. We have passed the question: That this Bill be agreed to in principle. We are into the detail stage of the Appropriation Bill. That is my advice.

MR LAMONT: My understanding is that there is a cognate debate on the Bill and the Estimates Committee report.

MADAM SPEAKER: That is correct. That means that you may refer to the Estimates Committee report when it comes to your part of the consideration in the detail stage. You may seek leave to make a statement now.

MR LAMONT: Madam Speaker, I seek leave to make a statement in relation to the Bill currently before the house.

Leave granted.

MR LAMONT: Thank you. Mr Cornwell once again appears to have it wrong. Mr Cornwell needs to look at the transcript of the Estimates Committee and to understand what was being discussed in relation to paragraph 4.92 in the Estimates Committee report. I do, however, wish to place on record my apology, which I have conveyed to Mr Cornwell in writing, in relation to a briefing that was to have been provided to Mr Cornwell. I understand that a briefing was provided to Mr Moore and Ms Szuty on that question some time ago, and for some reason it was not provided to Mr Cornwell, as had been my understanding.

A matter that he raised is referred to in paragraph 4.97 of the Estimates Committee report under the heading "Vacated Arrears". As the name implies, "vacated arrears" refers to a person who was a Housing Trust client and who left, owing money, generally without leaving a forwarding address. It is somewhat difficult, I contend, to have that information contained within the database of information held by the Housing Trust.

I think Mr Cornwell needs to take that into account, and I would also make that observation to the Estimates Committee. The other point is that Laurens and Co. have no control over the number of tenants who vacate with rent in arrears.

In relation to paragraphs 4.98 to 4.102, which refer to wilful damage, as I have indicated to the committee, steps are being taken to recover that debt. That debt has a total value of about $335,547, as outlined previously. In relation to some of that debt, where the persons concerned may still be clients of the Housing Trust, we have been able to transfer it to their current payment obligations. That is another way in which we are able to reduce that amount of outstanding debt.

I wish to talk about a number of other points that have been raised in the report. In relation to days lost through industrial disputes, the Estimates Committee report notes that during the course of the hearing I said this:

In 1993, the ABS Industrial Disputes in Australia statistics indicated that there were nine recorded disputes in that year, with twelve the previous year. They mostly occurred in public administration and defence. This was the lowest number of disputes for more than a decade ...

The report goes on to record that subsequently, in response to a question from Mr Westende about the numbers of days lost relative to national indicators, I said this:

My understanding is that it is amongst the lowest in Australia during that period.

Further figures were provided to the committee after its hearings. The committee's report says:

The Committee further notes that these figures could be subject to different interpretation, the ACT recording the fourth highest number of working days lost per thousand employees in 1993.

Madam Speaker, it remains the case that the ABS publication *1993 - Industrial Disputes - Australia* shows that for the 1993 calendar year there were just nine recorded industrial disputes. These mostly occurred in the public administration and defence areas of employment. This was the lowest number of disputes for more than a decade. While it is true that, at 76 working days lost per 1,000 employees, in 1993 the ACT had the fourth highest rate, this was significantly lower than the Australia-wide average of 108 days lost per 1,000 employees.

Madam Speaker, I also wish to refer to ACTION, and in particular the question of patronage levels, for there was some observation in the Estimates Committee report about a declining patronage level for ACTION. There were two comments made, by Mr Turner, the Secretary of the Department of Urban Services, and Mr Flutter,

the General Manager of ACTION, and there was some suggestion that they were contradictory. They were not. I would suggest to you, Madam Speaker, that Mr De Domenico, who put out a press release in relation to the matter, simply got it wrong.

The figures that were being looked at were the projections in relation to patronage growth. It was anticipated that we would achieve that growth level. Hence, that is why they were recorded at that level in those projections in the forward estimates. It turned out that we did not achieve that projection, but we did achieve a 0.06 per cent increase in actual patronage levels on ACTION by the end of the financial year 1993-94. So, Madam Speaker, the recommendation made by the committee in paragraph 4.110 - that "this decline in ACTION patronage be considered as part of the Study on the Future Transport Needs of the ACT community" is, in fact, based on an inaccurate statement. When those figures are analysed and you take into account that it is a projection that is contained in the forward estimates of patronage levels, which was built on an anticipated 2 per cent growth, you will find that there was an increase in the patronage level. It was very small and less than that anticipated; nevertheless, it was an increase. In relation to that particular recommendation, I believe that that matter has been satisfactorily answered.

Madam Speaker, there is one other matter in relation to ACTION that I wish to comment on. I refer to page 41 of the Estimates Committee report and the heading "ACTION Policy". I wish to place on the record of the Assembly the response that I made in relation to a specific question. It has to do with a report by the Industry Commission in relation to possible reforms within ACTION, and comments by the Leader of the Opposition on an ABC radio program the day after the release of the Industry Commission report. This is something which I have given due consideration. I have taken the opportunity to ensure that the Government did understand the implications of the Industry Commission report. Those implications were considered in relation to the policy that this Government has adopted for public transport. At no stage did I, apparently with much swiftness, dismiss the Industry Commission report. It was after long consideration that I dismissed the Industry Commission report - not with swiftness, but after long consideration.

I was asked a question by Mr De Domenico about why I was not prepared to accept the economic model of public transport policies proposed by the Industry Commission, and I said:

Mr De Domenico, the social obligations of a public transport system are not necessarily met by such a regime as proposed by the Industry Commission. This Government, in reviewing the reforms that are occurring within ACTION, in particular, believe that we are on track through both the benchmarking study and indeed our enterprise agreements being negotiated with our employees to achieve best practice, not just best practice as identified vis-a-vis a model, say, the Sydney urban transport system, but best practice of each of the public transport systems in Australia.

I think that needs to be borne in mind. We are on track. We have identified the savings, and we will continue to identify the way in which our system can become more and more efficient, to reflect not only best practice in a particular area but best practice across the board. The economic model proposed by the Industry Commission is simply not one that this Government is prepared to accept. Again, on the public record, I wish to say, quite unequivocally, that it was not with much swiftness that I rejected the Industry Commission and Liberal Party model. It was after long and hard consideration that I rejected it.

Mr De Domenico: It was set up by your Federal Labor Government.

MR LAMONT: I will continue to do so, Mr De Domenico, because this Government has the responsibility to deliver proper social justice outcomes to the people of the Territory vis-a-vis a proper public transport system. That is what happens, Madam Speaker, in relation to this matter.

I can understand why the Liberal Party, in particular, would like to see this become a matter of some debate, and I welcome it, for one very simple reason. The natural corollary of the Opposition's argument is exactly the same as that of their argument in relation to the health system, the education system, the police system and any other system that operates in the ACT - flog it off to New South Wales. What they want to see provided here in the ACT is the type of bus service that is provided in the western suburbs of Sydney.

Mr Connolly: What bus service?

MR LAMONT: Mr Connolly says, "What bus service?". That is exactly right, Mr Connolly. That is the type of system that they want to see being introduced. It might be all right for their mates driving around in their Volvos, but it is not good enough for the working men and women of this Territory. Mr Deputy Speaker, I believe that it is appropriate that I place those comments on record.

There were a number of other matters raised by the committee which I have much delight in supporting, in particular the prospect of an increased number of projects being undertaken by Public Works in the capital works category and for them to be assessed vis-a-vis the value management concepts which were outlined by the previous Estimates Committee. I am confident that we will be able to substantially increase, over the years, the use of these principles in delivering timely capital works for the people of the ACT. My department is committed to it. I am aware that the agencies with which we work are becoming committed to it and see it as a valuable tool in providing for timely, cost-effective public works in the ACT. Again I commend the committee for their diligence in continuing to address this matter in successive years. It is a real difficulty when they do not time you, is it not?

Ms Ellis: Just keep going.

Mr Kaine: You do not have to fill in all the time if you do not have anything to say.

MR LAMONT: I do, but I really wanted to address those matters. At page 45, in paragraph 4.129, the committee made this recommendation:

the contracting process regarding the introduction of wheeled garbage bins and the recycling service be referred to the Auditor-General for more detailed examination.

That is a matter that I welcome, as the Minister, just as I welcome the apology from a private sector employer organisation which, using the words of somebody scurrilously using the parliamentary privilege of this place, tried to besmirch me and officers of the department. They have also apologised. That is a matter which members in this Assembly should take into account, particularly if they attempt to denigrate me or officers of my department in relation to this matter outside this chamber. I warn you: Use the coward's castle because, if you say it outside, I will take you for every penny you have.

ACT Legislative Assembly

Proposed expenditure - Division 10 - ACT Legislative Assembly, $5,993,100 - agreed to.

Chief Minister's Department

Proposed expenditure - Division 20 - Government and Co-ordination, $11,936,600 - agreed to.

Proposed expenditure - Division 30 - Economic Development, $12,960,400 - agreed to.

Proposed expenditure - Division 60 - Audit Services, $1,492,400 - agreed to.

Department of Public Administration

Proposed expenditure - Division 40 - Public Administration, $20,460,200

MR KAINE (3.32): This is an interesting request for an appropriation in that this department, as I understand it, has been in place for some time but I have not seen any machinery of government gazettal that establishes it. I asked during the estimates processes how the Chief Minister could establish a new department, pay a new departmental secretary, and do all of the things that are associated with it, without a proper gazettal of the fact that a new department had been created. I did not get an answer. Before I am prepared to vote to support this particular appropriation I would like an explanation of how a new department was formed without any machinery of government gazettal of the fact that it exists.

MS FOLLETT (Chief Minister and Treasurer) (3.32): Mr Deputy Speaker, I will check up on the situation as to gazettal; but I am sure that members are aware that I have spoken before on the creation of the department and the reasons behind that, and the fact that the department has been pulled together from a range of fairly diverse entities contained in a number of other ACT departments - for instance, the Corporate Services Bureau from Urban Services, the Office of Public Sector Management from the Chief Minister's Department, and so on. I believe that, with the creation of a separate ACT service, there is a need for a central management agency such as the Department of Public Administration, and I believe that there are a number of issues which such a central agency must address.

The first of those, and the most important, in my view, is the development towards excellence of our public service in the ACT. Members will know that the ACT Government Service was created out of an enormous range of organisations and parts of other departments. I think that the public service in the five or so years since self-government has done a wonderful job; but there is no doubt that it has been a difficult task for them to operate in a corporate manner as a single service and in a coordinated way. There is also no doubt that, as a public service, we still have to strive to reach the excellence that I know everybody would wish for the ACT's public service. Effort must go in centrally to things like training, the classification of positions, and the management of particular areas where the advice and assistance of a skilled central agency will make all the difference to progress in those areas.

It is also a fact that there are a range of issues that face our ACT Government Service - issues like workers compensation and occupational health and safety, where we all know that a greater effort is needed. It is my view that, if a central agency can give its attention to matters like that, we will get a better result. I know that members, throughout the Estimates Committee process which has recently been concluded, saw a vast array of results on occupational health and safety in different agencies. Those variable results have led overall to two things: First of all, an apparent increase in the injury and illness of our workers, and also an apparent increase in the length of time that they are off work. The other thing they have led to, of course, is an increase in the premiums that we are paying to Comcare. I believe that a service-wide issue like that is best addressed by an agency that has a service-wide perspective, and that is what the Public Administration Department is expected to do.

With the formation of the new ACT Government Service I also think it is appropriate for one area, one department, to have an oversighting role in the development of our service. I know that everybody will be aware that, in the process of creating that service, all departments had to be consulted, unions had to be consulted, and there were negotiations with the Commonwealth. It seems to me that, as the service continues and grows, that oversighting, monitoring and nurturing role is still required, and will be required for some time. That is the reason for the department.

To conclude, Mr Deputy Speaker, I can advise Mr Kaine that the administrative arrangements which create this department and establish it under my own ministry have been gazetted, but they have not been tabled in this place. The legal requirement of gazettal has been complied with.

MR KAINE (3.36): The Chief Minister spoke at length, but she did not answer my question until the very end. She spent a great deal of time justifying why there ought to be another department. That is a debate in itself which has never been held - a debate as to whether or not, in achieving reductions in the cost of government, the creation of new departments contributes or whether it adds additional cost, and whether there is a need for it or whether it is useful and productive in the end anyway.

I note that in last year's budget there was a provision within the Department of Urban Services portfolio for government corporate services of $53m-odd which has disappeared. I presume that that is where the funding for the new department has come from, because it does not seem to have come from anywhere else. Presumably this new organ, this new department, is created upon the core of the old government corporate services organisation in the Department of Urban Services. That was the basis of my question. You just cannot create departments of state; they have to have some legal validity. The Chief Minister tells me that it has been gazetted, but I must admit that I have not seen the gazettal. If it has been gazetted, perhaps she can produce the evidence that it has been, because this department has been in place for some time - some months, in fact. I would be interested to know when the department was created, on the one hand, and when it was gazetted, on the other. I suspect that there has been a big gap in between. That was the question that I actually asked the Chief Minister.

MS FOLLETT (Chief Minister and Treasurer) (3.38): Mr Deputy Speaker, I table *Special Gazette* No. S139 of Friday, 1 July 1994, which establishes, amongst other things, the Department of Public Administration.

Proposed expenditure agreed to.

ACT Treasury

Proposed expenditure - Division 50 - ACT Financial Management, $96,053,900 - agreed to.

Department of the Environment, Land and Planning

Proposed expenditure - Division 70 - Environment and Conservation, $33,096,300 - agreed to.

Proposed expenditure - Division 80 - Territory Planning, $4,802,100 - agreed to.

Proposed expenditure - Division 90 - Land, $19,142,400 - agreed to.

Proposed expenditure - Division 100 - Culture and Heritage, $13,543,200 - agreed to.

Bureau of Sport, Recreation and Racing

Proposed expenditure - Division 110 - Sport and Recreation, $13,568,800 - agreed to.

Attorney-General's Department

Proposed expenditure - Division 120 - Legal Services to Government, $16,661,200 - agreed to.

Proposed expenditure - Division 130 - Community Legal Services, $7,043,500 - agreed to.

Proposed expenditure - Division 140 - Administration of Justice, $9,822,600 - agreed to.

Proposed expenditure - Division 150 - Maintenance of Law and Order, $51,138,000 - agreed to.

Housing and Community Services Bureau

Proposed expenditure - Division 160 - Housing and Community Services, $103,344,500 - agreed to.

Department of Urban Services

Proposed expenditure - Division 170 - Public Transport, $47,209,700

MR DE DOMENICO (3.43): I rise only to comment on the comments made by Mr Lamont earlier. Mr Lamont attempted to say that what other members of the Estimates Committee thought and did was wrong and that he was right. I would like to take umbrage at what Mr Lamont said. He gave us an interesting figure when he said that he believed that, in fact, the patronage of ACTION buses did go up by 0.06 per cent. Wow! I say "wow" because Mr Lamont would know that whilst patronage went up by 0.06 per cent the population of Canberra in the same time increased by 1.8 per cent. I am not a mathematician; but even I know that that means that, in a macro sense, patronage has decreased, which is what Mr Turner or Mr Flutter said. Anyway, someone got it wrong and the other person corrected him. I think that that needs to be put on the record.

Mr Lamont also suggested that the Industry Commission report was looked at very carefully before he, in turn, and his Government rejected it. It is interesting that the Industry Commission report was initiated by another Labor Government federally. It is interesting also because the Government's own Morgan and Travers report model was very similar, if not identical, to the Industry Commission report. That was a model commissioned by this Government. We also know that the Hilmer report and its recommendations literally mirror what has been said by the Industry Commission and also Morgan and Travers. Also, just today, Mr Kaine tabled a report on a review of a report from the Auditor-General of the ACT who - surprise, surprise! - also being a gentleman of much learning and much intellect, also mirrored what the Industry Commission, Morgan and Travers, and Hilmer had to say. It seems once again, therefore, that Mr Lamont and the Government are the only ones in left field who are not agreeing with what people with commonsense say from time to time.

Mr Lamont also had a lash at what people may or may not have said about certain contracts. The Liberal Party, for one, will continue to ask questions on anything it believes has not been done in the way it ought to have been done. People can either confirm or deny that when they are asked that question. I put Mr Lamont and the Government on notice that we will continue to ask those probing questions. Madam Speaker, I thank you for the opportunity to say those few words.

Proposed expenditure agreed to.

Proposed expenditure - Division 180 - City Services, $70,479,000 - agreed to.

Proposed expenditure - Division 190 - Fire and Emergency Services, $11,453,000 - agreed to.

Proposed expenditure - Division 200 - Public Works and Services, $122,541,300

MR KAINE (3.46): It is a pity Mr Lamont is not here, because he went to great lengths to say that this Government is determined to provide quality works and public services to the Territory. The expenditure this year is planned to be only about $122m, in round figures. Last year it was planned to be $137m. Based on the report card for the year that the Chief Minister tabled the other day, there was an underexpenditure on capital works of something of the order of - I do not have the paperwork in front of me - $50m. So, of the $137m we were asked to appropriate a year ago, the Government failed to spend $50m. We were told that this was a saving.

I translate that rather differently. I translate that to say that $50m worth of works and facilities that were programmed and appropriated to be delivered to the community of the ACT were not delivered. I would have regarded that as capital works that could not be completed and would be completed in this current fiscal year; but, no, the provision is $14m less than it was last year. Clearly, there is no intention to pick up the works that were not completed last year, so where did they all go? Was this $50m worth of works that the Government never intended to do in the first place - in other words, did they seek an appropriation of $50m that they never intended to spend? - or, to quote the Chief Minister, was this good management; that they saved $50m by not delivering capital works that were expected by the community? I do not know. I can assure the Chief Minister that, in the subsequent Estimates Committee processes that are to take place later to evaluate last year's results, I will be pursuing the matter very closely.

My question in connection with this year's budget is this: If they failed to deliver $50m worth of capital works last year out of a budgeted expenditure of $137m, how much are they going to short-deliver this year? Out of a projected expenditure of $122m, are we going to get only $80m, $70m, or $90m?

Mr De Domenico: Which particular projects are going to miss out?

MR KAINE: Mr De Domenico asks: Which projects are going to fall off the end? Is it going to be the enclosed oval in Tuggeranong, or is it going to be road works in Ngunnawal? What is it that is not going to be delivered?

I have raised the question before and year after year the Chief Minister comes in and says, "Last year we saved all this money because we did not spend it". She made the same claim the year before last. She claims that this is good management. I claim that it is poor management. In the capital works area we are clearly talking about facilities that were expected by the community and were not delivered. I really do put a question mark around the fact that the Government asks us to appropriate $122,541,300 when I have no assurance whatsoever that all or any of it will be spent. Perhaps the Chief Minister, or Mr Lamont, if he would like to come back and put his money where his mouth was 15 minutes or 20 minutes ago, might give us an assurance that they are going to spend it for the purpose for which he is asking us to appropriate it.

MR DE DOMENICO (3.50): Madam Speaker, I also rise very briefly. Mr Kaine triggered this. When the Chief Minister or someone gets up to answer Mr Kaine's question, I also would like to know which sorts of projects may not be commenced or gone ahead with if there is going to be, as the Chief Minister says, another saving like last year's.

I rose because I noted that in a publication this week - I think it was the *Tuggeranong Chronicle* - Ms Ellis invited me to join with her to support the extension of Drakeford Drive in Tuggeranong. She said, "I think Mr De Domenico takes an interest in streets in the north of Canberra. I want him to join with me to make sure that we get this extension next year", or words to that effect. I say for the public record that I now join with Ms Ellis in putting as much pressure on this Government as possible. After all, Ms Ellis is a member of this Government, so one would think that she has greater access to her Ministers than I have. I make a point of saying, "Yes, Ms Ellis, I agree". This Government might use some of this unexpended public works money to make sure that that extension goes ahead in the Tuggeranong Valley. Like Mr Kaine, I would be very interested in seeing what the Chief Minister has to say in answer to the question.

MS FOLLETT (Chief Minister and Treasurer) (3.51): Madam Speaker, I would like to respond to some of the comments that have been made. Firstly, in reply to Mr Kaine's comments, the underexpenditure on the capital side from last year's budget was $30m, not $50m. The correct figure is $30m. That underexpenditure came about in a number of ways, many of which were beyond the Government's control. I find the Opposition's reaction and position very interesting. Apparently, they believe that we should have spent this money regardless of the purpose for which it was appropriated last year, and regardless of whether those purposes could be achieved.

Members will know that a great deal of the underexpenditure was due to the delays in the Magistrates Court complex and the hospice - delays which must be attributed to the National Capital Planning Authority. Delay also occurred, for instance, in the construction of the Australian International Hotel School. That delay will not delay the completion of the International Hotel School. The completion is on schedule. In fact, Madam Speaker, the hotel school will be taking its first students early next year. There was a delay also in the ACTION ticketing system, and again it was a delay that was beyond the Government's control. I find it extraordinary that members appear to think that we should have gone ahead and spent the money anyway, on something.

In formulating this year's capital budget we have taken account of those factors, and I expect that all of those matters will be resolved. The reduction in the public works and services budget that Mr Kaine has referred to has come about largely because of the winding down of the hospital redevelopment project at long last. That has been an extraordinarily expensive project. It will amount in total to about $200m. It has taken place over a number of years, but we have now passed the expenditure hump in that project and there is some winding down occurring there.

On the general question of expenditure of capital works moneys, Madam Speaker, I would like to make it clear that, in devising the capital works budget, I expect that the projects that are funded in that budget will be completed. Treasury, in particular, has been working with agencies to ensure that capital works proposals put up for funding are achievable, that they have been well thought out, and that they can be completed in the year for which they are being funded. That work is still progressing. I do think that we are making strides there. If you look at the reasons for underexpenditure this year you will see that the major areas of underexpenditure were beyond the control of the Government or the agencies.

I would like also to answer Mr De Domenico. The earlier budget will help with the expenditure of capital works because, clearly, everybody can get an earlier start on that work and an earlier indication of the Government's intentions. The issues with the NCPA that I referred to in relation to the Magistrates Court and the hospice have now been resolved, so those projects are steaming ahead in this current year. This year, and in the coming year and in future years, I, as Treasurer, and the Treasury will need to monitor capital works projects very closely to ensure the completion of those projects in the year for which they are funded. I take that point.

Proposed expenditure agreed to.

Proposed expenditure - Division 210 - Corporate Development for the Department of Urban Services, $30,531,000

MR KAINE (3.56): Madam Speaker, this is another appropriation which I think the Chief Minister or somebody needs to explain. Last year we had an appropriation for corporate development for the Department of Urban Services specifically of $8.9m in round figures. Let us say that it was $9m. There was, in addition, an appropriation, in round figures, of $53m for government corporate services. Government corporate services is the source from which the funding of the new Department of Public Administration has come, obviously; namely, just over $20m. But corporate development for the Department of Urban Services has increased by about 350 per cent, from $9m to just over $30m. I ask the Chief Minister: How can the Department of Urban Services spend an increase of that order of magnitude on corporate development for itself, since we now have the separate Department of Public Administration with its own budget of $20m, which presumably is looking after the public administration of the whole of the ACT public sector? What happened in the Department of Urban Services that required the appropriation for just its corporate development to jump in one year from $9m to over $30m? It has not been explained, and I think it needs to be.

MS FOLLETT (Chief Minister and Treasurer) (3.57): The answer to Mr Kaine's question, Madam Speaker, is that this has occurred largely as a result of the change to the administrative arrangements orders. Payments for rent, fitout and so on follow the break-up of the Corporate Services Bureau and the redistribution of that bureau, mostly into the Department of Public Administration. I am advised that that is the major reason for that increase.

Mr Kaine: It is a massive increase.

MS FOLLETT: Yes, I agree.

Proposed expenditure agreed to.

Department of Education and Training

Proposed expenditure - Division 220 - Canberra Institute of Technology, $62,356,500 - agreed to.

Proposed expenditure - Division 230 - Government Schooling, $199,865,700

MR CORNWELL (3.58): Madam Speaker, we are having a cognate debate on the Appropriation Bill and the Estimates Committee report. I feel, therefore, that it is important to draw to the attention of the Assembly, and particularly the Government, some of the recommendations that came out of the Estimates Committee in relation to schooling. I would like particularly to mention what appears on page 47 in relation to the section on literacy and numeracy, and what appears over the page in paragraph 4.145 in relation to peak enrolments.

The literacy and numeracy initiative is welcomed, I am sure, by everybody in the Assembly, not to mention people out there in the school community. However, $300,000 is a petty, piddling amount. To make matters worse, it is only a pilot program and, thus, the funding will be available only for 12 months. As we have stated in the Estimates Committee report at paragraph 4.143, it is already known that some 19 per cent of students entering Year 1 require reading recovery assistance, and only 13 per cent of such students are, in fact, receiving this assistance.

What is important to remember in relation to that comment is the reference, which was the report of the House of Representatives Standing Committee on Employment, Education and Training, *The Literary Challenge*, of December 1992. We are already 18 months beyond that time, and I do not believe that anybody in this house would imagine that the situation has improved to the extent that we no longer have 19 per cent requiring assistance; that somehow it has fallen back to the 13 per cent who are receiving assistance. I do not think anybody is naive enough to imagine that. Therefore, I would urge the Government to not seriously consider but, in fact, act upon the recommendation of the Estimates Committee, namely:

. the Government extend and expand the Numeracy and Literacy pilot program to a permanent program with appropriate growth funds.

I say that not only in the interests of the teachers in the system. I do not believe that you will find any teacher in the system who would not support the need for this. They are, after all, at the coalface, so to speak; they see on a daily basis the desperate need for this. I would suggest to you that society itself needs this input. If we do not address literacy and numeracy problems at that crucial Year 1, the problems that will be created for those disadvantaged children will flow through and probably will affect them for the rest of their lives. This, in turn, will affect the rest of society, because it is not only a problem of education. The simple fact is that, if they have problems with literacy and numeracy, the further they progress through the education system, the further they will fall behind and the more disillusioned they will become, so that, at age 15, which is the legal age for them to leave, most of them will accept that option. They might, under those circumstances, take themselves straight to the dole queue because the possibility of most of them finding employment with those problems of literacy and numeracy is very remote, I would suggest.

As a result, as a spin-off from that, we could have all sorts of other problems. Not only is it a drain upon social welfare; it could ultimately lead to problems with the law, the police and justice. It could see inadequate opportunities for housing. Health problems could also come into it. What I am trying to point out is that, if we do not address this at Year 1 of education, the ultimate cost to society is far greater than simply education. It covers a whole range of portfolio responsibilities. Therefore, I would urge the Government to not seriously consider but act upon the recommendation in paragraph 4.144.

On the other matter of peak enrolments, I would remind the Government that in last year's Estimates Committee report we made the same comments as to our concern about the primary schools of Gordon and Conder in the Tuggeranong valley. This year we are concerned about them in Gungahlin. The peak enrolments are 750 students. In fact, we made a couple of recommendations. I think, again, that they are worth repeating. The Estimates Committee recommended:

. future planning of primary schools and anticipated peak enrolments take cognisance of the socialisation of young children; and

. where primary schools with large enrolments are anticipated, the need for additional resources is examined with a view to adequately supporting both the students and staff of such schools.

I can only re-endorse those comments by this year's Estimates Committee.

Recently, in the "Education Perspective" section of a local daily newspaper, a primary school principal took me to task in a mild way in relation to school size and pointed out, quite correctly, that it was not the size of the school that necessarily decided the education of its pupils but the quality of the school.

Mr Wood: He was quoting my words.

MR CORNWELL: Mr Wood has been saying that for some time too. I have no disagreement with those comments. However, I am still concerned about the costs involved in the large schools and in the small schools, Minister. I do not believe that a small school of 124 students can provide the same range of educational opportunities as a large school without some additional financial input, and that additional financial input must come from elsewhere in the education budget and thus is not allocated to other schools, perhaps even larger schools. That is my basic concern. Therefore, I would hope, if you are subsidising, as I suspect you are, the very small schools in our system, that you will also take cognisance of what we recommended last year and what I am reiterating this year. If you are going to have larger schools, up to 750 pupils in a primary school and 1,000 in a high school, then please also provide sufficient resources so that they too are not disadvantaged.

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning) (4.07): Madam Speaker, Mr Cornwell raises two matters. My memory of that Federal parliamentary report and the 19 per cent seeking reading recovery and the 13 per cent getting it is that that was a Department of Education submission, so it has some official status. Nevertheless, it was based on a survey of schools and teachers' views. They would be views that I would respect. I suppose that that 19 per cent would represent the lowest percentiles in terms of reading achievement. But let me point out that reading recovery, that particular program, is not the only thing that is done in our primary schools and other schools to assist students with reading. I persistently make a point to teachers that they must accommodate to all children in their classes - all ranges, all abilities and all difficulties - and teachers do that, I believe, very well.

We allocate the resources, I think, to the level of about 26 reading recovery teachers in our primary schools. It is a one to one program between teacher and student. It is intensive and the reports I get are that it is quite successful. But beyond that there are other measures. We are reviewing those measures this year with a pilot program. There are measures for the learning advancement program, for the learning assistance program, and in some pilots we are wrapping those together to see whether we can deliver a better product, or whether we need to do things differently. So do not think that reading recovery is the be-all and end-all of help given to students in reading, in this case, in our schools, although that pilot program, of course, covers learning disabilities generally. A great deal of activity happens in schools. The simple statistics, of 19 per cent for whom assistance is sought and 13 per cent who get it, do not really reflect the situation as it occurs in schools. My general statement would be that we teach our kids very well in our schools. We have outstanding success. But, given the pattern of human behaviour, human development, there are some children who will always develop at a slower rate and will always need particular assistance.

To come back to this question of school numbers, I have said before that I am not impressed by arguments that say that we must look too closely at numbers. There seems to be a fixation sometimes in thinking that small schools are not desirable or that large schools are not desirable. I have repeated often enough the comment that Mr Cornwell made, namely, that it is what happens in the school that is important.

Let me give Mr Cornwell and other members some figures. Before I do, let me comment on the Commonwealth Schools Commission report that gave out certain recommended desirable sizes of schools. Of course, the Schools Commission does not exist any more. I think it did desirable work, but it does not exist; it is no longer in operation. I would not seek to discredit any of its reports. I think that during its life it did an outstanding job. Mr Cornwell and the members of the committee seem to say that we must not have schools of excess size. It is over 800 for a high school, is it? Let me give you some figures of schools in Canberra, and I would ask anybody to stand up and tell me if they are not good schools. I would have said that they are. Canberra Girls Grammar senior school has 868 students. On the criteria that you put down here, that is not good; we should not have it. Canberra Grammar has 964 students. Radford College has 910 students. Would Mr Cornwell and other members of the committee go out and say to those schools, "Hey, this is not a good educational establishment".

Mr Humphries: They are very well resourced, though, are they not?

MR WOOD: Those schools tell me, and I think you have told me, Mr Humphries, that they get fewer resources than government schools.

Mr Humphries: They do from government, yes. I am not saying that they are poor schools, but they are not very well resourced from government.

MR WOOD: All right; they are well resourced schools. By the criteria established by the Commonwealth Government, the Federal department, they are well resourced schools because they are in categories 1, 3 and 6, respectively. So they are well resourced. Let me go to a category 10 school. A category 10 school, on that basis, therefore, is much less well resourced, and this is a good school. Daramalan College had 1,207 students, as at February 1994.

Mr Moore: That is actually two schools. They have a high school, a college, and a primary school.

MR WOOD: No; I think these figures are separated out, Mr Moore. I will come to some primary schools in a minute. Merici College, nearby, has 926 students. St Francis Xavier High School out at Florey has 919 students. They are category 10 schools. Do you want to tell me, or do you want to tell them, that their schools are too big; that they cannot do the job because they are too big? I would not want to tell them that. I have been into most of these schools and I assess them to be operating extremely well. St Clare's College has 1,128 students. Marist College has 1,121 students. Let us look at some primary schools that are above the size that this committee's report tells me is too high. Holy Family Primary School has 822 students.

Mr De Domenico: It is a great school.

MR WOOD: Mr De Domenico is right. It is a great school.

Mr De Domenico: They would accept more money if you gave it to them.

MR WOOD: If I had more money I would give it to them. It is operating extremely well, and it has well in excess of what some people - not I - consider to be a desirable number. St Anthony's has 593 students; St Thomas the Apostle has 539; and on it goes. I think those simple statistics indicate clearly enough that you cannot run any valid argument about the size of a school, and how good or bad it is. I think Mr Cornwell has been to one of these schools. Go out to Cook or Lyons and see how well they are going. They are doing a great job. Let me tell you that I am not concerned about schools and the number of students in them; I am concerned about the quality of programs in those schools.

MR MOORE (4.15): Madam Speaker, Mr Cornwell has raised some important issues and Mr Wood has attempted to address them. There is positive research that provides some good evidence for what is in the committee's report - that schools function best, in other words, at the optimum, below 600 students for primary schools and below 800 students for secondary schools. There is evidence that they are optimum levels. That is not to say that schools cannot operate effectively; but what we are looking for in our education system is to try to run optimals, if that is at all possible. So I think this part of the debate still should remain open.

I would like to raise a couple of other issues that Mr Cornwell did not touch on. The first is the committee's recommendation at paragraph 4.140, namely:

. detailed discussions about sharing of facilities at the Primary and Pre-school in Nicholls take place as quickly as possible which will enable any outstanding difficulties to be resolved.

The Government's response is that the Government is currently holding discussions with the Catholic Education Office regarding the co-location of educational and community facilities at Nicholls. That is good; but, if you read the paragraph leading to that recommendation, you will see that we were quite specific in saying:

The Committee notes that although extensive consultation has taken place in relation to the proposed sharing of school facilities ...

I think it is important to note the tone of this; that the committee is supporting that process. We are not being critical of the process. We are making what I consider to be a constructive recommendation. We note:

... further consultation will be undertaken during the design stage with Government agencies and union, community and specialists representatives.

We are seeking to have you go further than just your consultation with the Catholic Education Office, which we accept has been going on along the way. I think it is appropriate to recognise that the Government is responding in a positive way, but I hope that the Minister will clarify that matter for us.

The other issue I would like to raise is the issue of professional development. This issue has come up since the Appropriation Bill was tabled. Does the Minister still maintain the attitude that teachers should be singled out from all government employees to pay for their own professional development, and to support their own professional development financially; or will he seek to have his department back away from that process, ensuring that the professional development of teachers is seen as part and parcel of our appreciation of what they do, and as part and parcel of the improvement to the education system and their own professional qualifications, recognising, of course, that Canberra teachers are amongst the best qualified in Australia? That is something that we wish to continue. We wish to maintain their interest in their ongoing professional development.

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning) (4.19): Madam Speaker, with respect to the joint facilities at Nicholls, I did see a copy of a letter that the department sent to the Australian Education Union a little time ago taking on the debate. I understand that the two bodies are talking to each other. Of course, there is a lot of work yet to be done in that local community about the way the schools go.

In regard to professional development, it continues to be under review. I have to say that I was at one of those professional development courses this time last week and there were about 260 teachers there. They seemed to be accommodating to it. Nothing is fixed, but I am not sure that it is regarded as a significant problem.

Mr Moore: You could just make a decision.

MR WOOD: Mr Moore, we are examining the issue. I am not sure that it is the problem that it was presented to be.

MR MOORE (4.20): Mr Wood says, "We are examining the issue". Let him examine the issue. The reality is that teachers, of all members of the Government Service, have been singled out in this particular way for their professional development. It is entirely inappropriate. Mr Wood can make a decision, and that is what I was suggesting.

MR CORNWELL (4.21): Madam Speaker, very briefly, Mr Wood attempted to make out a case for larger schools. I think Mr Moore has adequately answered that matter by stating that we would prefer the optimum size to be as the Commonwealth Schools Commission recommended some years ago, as indeed would the ACT P and C Association, who agree with the committee in this matter. I think it is important, Madam Speaker, that I make this point. Mr Wood quoted non-government schools and the number of students at a number of those schools. I would suggest to members of the Assembly that having large numbers of students is not necessarily the choice of those non-government schools. Indeed, I would think that at the primary level, certainly within the Catholic school area, if additional funding were provided, they would be only too pleased to open more schools in the ACT and thus spread the number of students. It is not from choice that they have these large numbers. It is due, rather, to financial circumstances.

Proposed expenditure agreed to.

Proposed expenditure - Division 240 - Non-Government schooling, $59,368,500 - agreed to.

Proposed expenditure - Division 250 - Training, $3,673,600 - agreed to.

Department of Health

Proposed expenditure - Division 260 - Health, $271,808,300

MRS CARNELL (Leader of the Opposition) (4.23): Madam Speaker, I think that one of the things that we have all noted, as did Mr Connolly in his press release when this budget was bought down, is that in recurrent terms this is $14m more than the published forward estimate for Health. In fact, if you add in capital, it is $16.7m more than was initially forecast for this year. That is a huge increase at a time when the ACT budget is being cut back because of Federal Government cutbacks. Mr Connolly has gone on to suggest that somehow this is going to achieve a stabilisation in Health, that it is going to achieve all sorts of things; but, as the Estimates Committee said, there is really no indication of how this is going to be achieved.

I was very disappointed to see the Government's responses to the Estimates Committee report in the health area. Basically, they were one-liners all the way through - one-liners to recommendations that were thought out and were subject to a very large amount of debate. There were responses such as:

The Committee will be advised of expenditure reductions through Budget Papers and Program Explanatory Notes each financial year.

What the Estimates Committee said is that we were not happy with those explanations. They were impossible to fathom and equally impossible for anybody to understand. Yet we have those sorts of glib responses. I do not think that is acceptable.

I was fairly disappointed, as, I am sure, was Ms Szuty, with the response about the adolescent ward. Again it was a glib response that a comprehensive strategy will be worked out at some time in the future. Last year the Assembly passed a motion saying that we wanted an adolescent unit at Woden Valley Hospital. Now, in response to a recommendation from the Estimates Committee, we are told about a comprehensive strategy for adolescent health. That is something that we would all support; but this Assembly believed that the adolescent ward was separate from that, and it should be on the books now. That is what this Assembly asked for and it is certainly not what we have seen here. In fact, it is said:

This will allow all adolescent health needs to be properly addressed in 1995.

It does not say what those needs will be. An adolescent ward is not mentioned in the Government response, and it certainly gives no timeframes.

One of the things that this Assembly had already suggested with regard to the adolescent ward was that it needed to be planned into the hospital redevelopment program - a program that finishes at the end of next year, or in that vicinity anyway. To have it not planned in, and seeing nothing in this response to indicate that it is going to be planned in before the end of the hospital redevelopment program, I believe is simply unacceptable. In view of previous decisions of this Assembly, I would suggest that the whole Assembly would consider it unacceptable. We wanted to know where the increases in health expenditure actually were.

Mr Berry: Before the cardio-thoracic unit or at the same time? We might contract them both out to New South Wales.

MRS CARNELL: We could go onto contracting out if you like. When it comes to the Health Promotion Fund, I expect that we could almost put our recommendation into next year's Estimates Committee report - well, hopefully not, because, if the public see the light, we will have made it 5 per cent of the revenue by then. To say, as appeared in the Government's response, that the Estimates Committee's suggestion of 5 per cent is somehow unacceptable because, you never know, smoking might decrease because of Government strategies and then the Health Promotion Fund might get less, is one of the most convoluted arguments I have ever heard. We know that the amount of money that is being collected from the tobacco franchise has almost doubled in the last three years, from $16m in 1991-92 to $30m in the financial year just finished. I will tell you what; it would have to decrease an awful lot to get under $30m.

Mr Connolly: How much? That is funny, because your committee says $23.9m.

MRS CARNELL: It was $23m the financial year before. The information that has come out only in the last two weeks shows that $30.8m was collected in the financial year that just finished. That is a $5m windfall to the Government, Mr Connolly - a $5m windfall that your Government is unwilling to put back into health promotion to attempt to get better health in the ACT. What we need to achieve those ends of less tobacco consumption and better health is better health promotion funding. That is what is being done - - -

Mr Berry: But you have to have some money to look after the sick and injured as well.

MRS CARNELL: First of all, Mr Berry, you know perfectly well that the only way we are going to do anything about escalating health costs in this country is by getting back to basics, by getting better health statuses originally, right from the beginning. If we spend all our money on critical care, both of you know perfectly well that that is a problem. It is unfortunate that every year the Estimates Committee comes forward with this recommendation. It is a recommendation that has been picked up in a number of other States that have realised that unless you spend money on health promotion you simply do not do anything about the escalating costs of critical care.

We also see a very glib response to the committee's recommendation on waiting lists. Apparently, as usual, ACT Health simply cannot give us that information, although there is a committee that might be able to do it down the track somewhere. The response on the nursing home beds at Calvary was somewhat more encouraging; but only, of course, if

the ACT Government can encourage a not-for-profit nursing home, hopefully, to set up in the Belconnen area. Maybe the Government would like to look back to the Social Policy Committee's recommendations along those lines on how to achieve that, and then we would be able to get over a problem - - -

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

[COGNATE PAPER:

ESTIMATES 1994-95 - SELECT COMMITTEE - REPORT ON THE APPROPRIATION BILL 1994-95]

Detail Stage

Debate resumed.

MRS CARNELL: Then we would be able to get over a problem where precious health dollars are being spent funding 20 nursing home beds that cannot pick up a Commonwealth Government subsidy because of where they are placed. They are very good nursing home beds. There is no doubt about that. What we have to do is try to maximise our health dollar. You know that.

Mr Berry: So, who would pay for them?

MRS CARNELL: The not-for-profit sector, Mr Berry. That is exactly what the recommendation says. Read your own recommendation. That is what it says.

The other thing which I found really amusing was the Government's attempt to explain the provision of private obstetrics bed figures. What the committee was saying is that the $1.1m in savings could be achieved only if those 1,400 separations were not replaced by any separations, whether they be day patients or whatever. If one of those separations is replaced - Mr Connolly knows that this is the truth - then the $1.1m simply is not saved; it is just diverted somewhere else.

Mr Connolly: We have always said that we would save it on maternity and redirect it into other services.

MRS CARNELL: No, you did not. What you said was that the $1.1m was going to be spent, or had been spent, on setting up prenatal clinics at Woden and Calvary. What was said was that that was where it was going to be spent. Now we find that the $1.1m in savings is going to be spent on improving throughput and so on at the hospital. I do not disagree with that; it was just that your initial statement was patently wrong, Mr Connolly.

MR CONNOLLY (Attorney-General and Minister for Health) (4.32): Madam Speaker, ACT Health, like all health systems in Australia, has its problems; but, my goodness, if you looked to Mrs Carnell for solutions, nothing much would happen. I want to address a number of issues that have been raised. Mrs Carnell criticises us for spending more money, I think, and then calls upon us to spend more money on the Health Promotion Fund and spend more money on the adolescent unit, although we should not spend more money anywhere else. I think that is what she said.

She accuses us of making a glib response about the adolescent unit. Madam Speaker, it would have been incredibly easy for Mr Berry or me to glibly identify an area in a general ward in the hospital, glibly bung up a sign and call it the adolescent ward, glibly put every person who is a bit too old for paediatrics and below the age of 18 in that room and glibly say, "We have provided an adolescent ward". But neither Mr Berry nor I was going to do that, because we are taking a fairly serious approach to adolescent health.

The response that is in the Estimates Committee report, far from being glib, is in fact a very considered response. The key issue with adolescent health problems - we only need to focus from general health to mental health to the teenage suicide rate, which is a national scandal that no government has been able to address - is not whether or not adolescents have an adolescent ward in a hospital context; it is whether we can provide comprehensive health services, mostly not in the hospital context, to ensure that we adequately meet their needs. The needs of teenagers in hospital range from that relatively small but very tragic number of cases of people with very serious diseases, who will be spending more and more time in the hospital context, through to the 16-year-old who does in the shoulder in a footy injury and wants to be into and out of the general surgical ward. as quickly as possible. So, to say that our approach is glib, Madam Speaker, is extraordinary.

Madam Speaker, turning to the Health Promotion Fund, she says that we should spend more money; that we are not spending enough of the money - the estimates range between $26m and $30m - that we are raising in tobacco tax on health promotion. Mrs Carnell in the past, displaying a deep and profound knowledge of public finances, has often said, "That just disappears into the bottomless pit of Consolidated Revenue". Madam Speaker, we are being asked here to appropriate something like $270m to run the health system. That $30m that we raise in tobacco taxes goes towards paying for the doctors, the nurses and the wardspersons to run that health system.

Mrs Carnell: We are saying that it should be spent on primary health care, on health promotion.

MR CONNOLLY: Mrs Carnell, you would like to spend more of it on health promotion. So would I. I would like to spend treble what we spend on health promotion, or 10 times what we spend on health promotion; but, Mrs Carnell, if I did it within the existing health budget, I would be sacking doctors, sacking nurses and closing beds in order to pay for health promotion. I am not going to do that, and the public of Canberra would not want me to do that. Mrs Carnell, you really should sit down with Mr Kaine on a quiet day, have a bit of a discussion about public finance and get some simple concepts - - -

Mrs Carnell: We often do.

MR CONNOLLY: You have not learnt. Get some simple concepts, like the fact that there is a finite pool of money, not a bottomless pit. If you spend on health promotion more of the taxes raised by tobacco that currently go into the $270m that we are spending on health, you have less to spend on doctors or nurses or teachers or police officers. Unfortunately, public finance does not operate as a bottomless pit or a money tree.

Madam Speaker, in relation to the provision of private obstetrics beds, I was very disappointed to see the committee politicking on that, particularly the claim that the Department of Health had misled the committee. The Department of Health was asked to provide a break-up of how providing approvals for a certain number of beds in the private sector would mean a lower demand in the public sector, which would mean resources being diverted, and that was broken down in a degree of specificity. I said that that would save $1.1m, and that has been documented. I do not think anyone has disagreed with the way we went through that documentation. I said that that would be diverted into other areas of the hospital. I mentioned public antenatal procedures as one pressing need, but I said that we would divert it to other areas. That was not questioned at the time.

The committee came up with its own calculation and said, "Shock, horror! It is going to cost $4.2m to open the private facility at John James". As I said at the time, Mrs Carnell, the Government would be delighted. If you want to entertain a motion that we not open those facilities in order to save $4.2m, you move it. You may even find that the Government would support you on that. The doctors of Canberra were laughing - a somewhat embarrassed laugh, but laughing, nonetheless - when the *Canberra Times* reported this committee's claim that it would cost us $4m to open private beds. For three or four years you have been parroting on, saying that the Government should approve some private beds because it will result in some savings. As soon as we do it, you say that it is going to cost us $4m. Madam Speaker, it is no wonder that people who observe the medical scene in this town were having a chuckle.

MR MOORE (4.37): The Minister has raised the issue of the $4m. We are not talking about closing down the beds. The beds in one section are effectively transferred to another section of the hospital. I think it is fair to say that the Minister has not yet responded effectively to the committee's calculations. I was part of supporting this report and doing those calculations, and I am very comfortable that those calculations are correct. I had expected the Minister to say, "Yes, those calculations are correct and we

have not been able to knock them because they are set out there very carefully", or, "No, what you have missed in those calculations is this and this". At this stage the Minister has not responded effectively to the calculations set out at paragraph 4.190 of the committee's report.

MR CONNOLLY (Attorney-General and Minister for Health) (4.39): We have done so in the Estimates Committee response. To start with, the glaring error is that you are basing it on the average maternity stay of 4.3 days. These could well be day procedures. If every one of the 1,400 maternity cases were replaced with a hip replacement it would not be $4m extra; it would be $14m extra. If it were averaged it may be this, but if it were day procedures it would be less. What we said we are doing is translating the $1.1m back in.

Mrs Carnell: Averages are averages.

MR CONNOLLY: You are never going to be satisfied. Everyone is giggling at this proposition. Let me say this: The proof of the pudding will be in the eating. I confidently look forward to reporting to you as Health Minister at next year's Estimates Committee and showing you how it worked out.

Proposed expenditure agreed to.

Advance to the Minister Administering the Audit Act 1989

Proposed expenditure - Division 270 - Treasurer's Advance, $12m - agreed to.

Remainder of Bill, by leave, taken as a whole, and agreed to.

Bill agreed to.

ESTIMATES 1994-95 - SELECT COMMITTEE
Report on the Appropriation Bill 1994-95

Debate resumed from 23 August 1994, on motion by Ms Szuty:

That the report be noted.

Question resolved in the affirmative.

MENTAL HEALTH (TREATMENT AND CARE) BILL 1994

[COGNATE BILLS:

MENTAL HEALTH (CONSEQUENTIAL PROVISIONS) BILL 1994
CRIMES (AMENDMENT) BILL 1994]

Debate resumed from 16 June 1994, on motion by Mr Connolly:

That this Bill be agreed to in principle.

MADAM SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with order of the day No. 3, Mental Health (Consequential Provisions) Bill 1994, and order of the day No. 4, Crimes (Amendment) Bill 1994? There being no objection, that course will be followed. I remind members that in debating order of the day No. 2 they may also address their remarks to orders of the day Nos 3 and 4.

MRS CARNELL (Leader of the Opposition) (4.41): Madam Speaker, I think that everybody in this house, particularly those who were involved in the Social Policy Committee's exhaustive deliberations on this issue, will share with me an understanding of the difficulties that are part of coming forward with any comprehensive mental health legislation. I know that people on all sides of this house have taken this issue very seriously, right from the *Balancing Rights* paper that was commissioned when Mr Humphries was Minister for Health through to the Bill that is on the table today.

Any number of concerns were raised about the initial draft legislation when it was first considered during the public hearings of the Social Policy Committee. The Social Policy Committee did its best to address those issues, and I believe that the Bill that has come out of those proceedings is a very good one. It certainly does not address all the issues that were raised by the diverse groups that came before the committee; but by having a review mechanism - the sunset clause - it ensures that we put forward today something that will change the way in which people with mental health problems in the ACT are dealt with. One thing on which we all agree is that the current situation is simply unacceptable. It is unacceptable for anybody who has a mental health problem of whatever sort - whether it is a behavioural disorder or a treatable mental health condition - to be handled in the criminal justice system. I hope that nobody in this Assembly disagrees with that.

The Liberal Party will be supporting the Bill in its entirety, including all the amendments, this afternoon because we believe that, above all else, that matter must be addressed, and it must be addressed quickly. The concerns that we have - and they have been the subject of recommendations by the Social Policy Committee and have been taken on board by the Government - are with what appears to be a very real problem in this area with resourcing. One of the things that we looked at for many hours was the new Mental Health Tribunal - a body that the Liberal Party supports totally. Part of the *Balancing Rights* report dealt with how we were going to help people by going outside

the criminal justice system and what we were actually going to do with the people who ended up in front of this tribunal. In many circumstances, the answer was, "We are not sure, because there simply is not adequate money in the system". The Government will probably attempt to say that we should spend more, spend less, or whatever. I think we all agree that we do not spend enough money on mental health in the ACT or, for that matter, anywhere else in Australia. It is unfortunate that spending in the ACT has traditionally - - -

Mr Berry: We spend more in the community than anybody else.

MRS CARNELL: No, we do not, actually. We spend less than anybody else, Mr Berry. Unfortunately, you are a little bit wrong; so just be quiet.

Mr Connolly: In community mental health we do; but globally - - -

MRS CARNELL: On mental health generally, we spend some 40 per cent less than some other States do.

Mr Berry: It is the old slogan again. You have to look at the big picture.

MRS CARNELL: If we look at the big picture, Mr Berry, we find that we spend 40 per cent less than most other States do.

Mr Berry: Yes; but we are more advanced than other States in many respects.

MRS CARNELL: I do not think you should get into that debate. You can only lose it.

Mr Berry: No; you will lose.

MRS CARNELL: Mr Berry, I think that, on this issue, everybody - except you, obviously - would agree that we do not resource adequately any area of mental health in the ACT or anywhere else. The Burdekin report made that very clear. One of the real concerns of the Social Policy Committee and of the Liberal Party - and, I thought, of the Labor Party as well - was that, as this Bill is brought into law, as an Assembly, we should ensure that people do not fall through the cracks and that there is adequate resourcing to pick up those people and to do what we can for them, as a community.

One of the things that we understand - certainly the Social Policy Committee did, and I thought that the Labor Party did as well - and that I am sure Mr Connolly understands, is that those needs vary from health needs, through to housing needs, through to social welfare needs. They are not simply in one area. That is the reason why we believe that the guardianship approach and the extensions that have happened in that area are very appropriate. We must look at case managers in this area. It is the only way to go. Every case is unique, and that is the problem in the area. Certainly, the Liberal Party totally supports that approach.

We also believe that keeping an eye on this whole thing - with ongoing monitoring of the Bill, how it is working, how the resourcing is working and where the people who come before the tribunal actually end up - is very important and a really big step forward for this legislation. The problems that have been put to us and, I suspect, to everybody else are that the powers of the Mental Health Tribunal are very sweeping. That is of great concern to all of us. It is essential that we have - and I believe that we do with this Bill - a non-partisan approach, to ensure that the rights of not one person will be infringed by our passing this legislation today. I think that is going to require all of us to be part of that ongoing monitoring of this important piece of legislation. I know that Mr Moore and I and the other members of the Social Policy Committee will be keeping a keen eye on where this legislation goes and seeing that the Government's undertakings to ensure adequate resourcing and adequate services eventuate. I know that Mr Connolly needs to leave; so I will not continue.

MR MOORE (4.48): Madam Speaker, in rising to support this legislation, I would like to draw attention to a couple of matters. First of all, I think that one of the critical things that came out of the committee was a very unusual clause 3 of this Bill. It means that the Bill will last for only two years, with provision for an extension for a further two years by a disallowable instrument. I think that expresses the concern of the committee about dealing with the series of issues involved in this Bill.

Madam Speaker, I would also like to address two prime issues that have been the subject of quite a number of letters to me and, I presume, to other members. One was from the Citizens Commission on Human Rights, which is a part of the Church of Scientology. The first issue that they dealt with was the involuntary referral, as they perceived it, of a person under clause 14 of this Bill. I am supporting this legislation because the very allegations they make about the Bill are actually dealt with in it. Under previous legislation, a couple of doctors could ensure that a person was deprived of their liberty for some time. What happens under clause 14 of this Bill is that there is a mental health order organised by somebody other than the person himself or herself, and that is of such great concern that this legislation provides that that, therefore, goes to a tribunal. Under this Bill, the decision of the tribunal is appealable to the Supreme Court. Therefore, I think that what we have done is to put in place a particularly significant protection compared with what happened before. I can understand that somebody reading clause 14 on its own might think that that was not the case. In the last couple of days I have taken care to ensure that I understand this appropriately. I will ask the Attorney-General, in responding, to verify that I have read it correctly.

The second issue relates to clauses 54 and 55 of the Bill, which deal with electroconvulsive therapy. Madam Speaker, I must say that I have grave doubts, as I imagine most people do, about the use of electroconvulsive therapy. However, I have been informed by people who have seen it and by people who have been depressed and who have voluntarily been through the process of electroconvulsive therapy that it is a very successful treatment for depression. There are doubts about that. I think we all share those doubts. The chance to review it is provided; but I believe that, in clauses 54 and 55, we have been particularly careful to ensure that appropriate safeguards are in place, that there is informed consent, and that anybody who accepts that it might be a useful therapy for them understands the full ramifications of what they are doing.

Madam Speaker, no doubt, in two years' time, members of the Assembly will be looking at this legislation again and trying to deal with both of these issues to see how successfully we have managed with this Bill. The reason why clause 3 is in there is that all of us who have looked at this legislation and *Balancing Rights* and have been through the whole process say, "We do not think we have all the answers. We are going to have to try to improve on what we have" - I believe that this Bill is a significant improvement on what we have - "and put more safeguards into place. Then we will review it, see whether it is working and see how it needs to be modified". Madam Speaker, it is for those reasons that I feel very comfortable about supporting the passage of this Bill.

MR CONNOLLY (Attorney-General and Minister for Health) (4.53), in reply: Madam Speaker, as members understand, I have, shortly, to leave the house. I am closing the debate, although I understand that Ms Ellis, as chair of the committee that did such a sterling job, would also like to make some remarks. I ask the house to extend her that courtesy.

I thank members very much for their cooperative approach to this legislation and to the whole process. It has been a massively complex exercise to get modern mental health legislation into this Territory. It is a job for which no one person can claim credit. The need was recognised upon self-government. Work was done in the period of the first Follett Government to start to address it. That work was picked up and run with during the time that the Alliance was in office. The *Balancing Rights* exercise was commissioned. It reported. For a period of about 18 months, I worked very closely with Wayne Berry when I was Attorney and he was Health Minister, because a comprehensive approach to mental health involves close cooperation between the Attorney-General's Department and the Health Department.

I should put on the record that my senior private secretary, Jo Baker, and Wayne Berry's senior adviser and then senior private secretary in the ministerial office, Sue Robinson, worked extremely closely over a very long period to drive this process. Inevitably, in a exercise like this, there were a lot of points at which departmental interests were clashing. They could easily have bogged down into years of IDCs. The process was driven very effectively by the two ministerial staff officers. Mr Cashman and the team of lawyers in the Attorney-General's Department have done sterling work on the policy aspects of this Bill over a long time, particularly during the period when it was before the Assembly committee.

The chair of the Assembly committee, Ms Ellis, did an extraordinary job, with the cooperation of all members of that committee, in pulling out a compromise and a synthesis of very difficult and, often, conflicting views. It is a matter of some credit, I think, to this Assembly that we were able to deal with such a complex matter by way of an exposure draft of legislation, a committee process at which there were very long and protracted hearings, a committee report which was able to come down unanimously on such a difficult piece of legislation, and a Government response which was able to pick up all of the issues of substance from that committee.

I know that members have been expressing concerns about the process, which is going on at the same time, sponsored by the Commonwealth, for model mental health legislation for the nation. I think some members are aware of a discussion paper that is about to be published. I would like to table copies of it. I have 17 copies available for members. Mrs Carnell and some other members may have seen this. While this is only a discussion paper about the model exercise, it is pleasing to see that they did have the opportunity to see the ACT Bill in its final form. That is the Bill that had been through the process of the committee and approved by the committee. The references throughout this discussion paper to the ACT Bill are, in my view, very satisfactory. Indeed, with all due modesty, as the Government Minister behind it, I could say that they are glowing in some cases. It has been picked up as a model. Madam Speaker, for the information of members, I would like to table the model mental health legislation discussion paper published by the University of Newcastle's Centre for Health Law, Ethics and Policy, funded by the Commonwealth Government. I think it takes away some of the concerns members may have had.

I thank members for their cooperative approach. This is a significant day in self-government. We have finally been able to deal with this difficult issue; in the consequential amendments Bill, we are finally putting to rest the last vestiges of the Lunacy Act of 1898, as it applied in the ACT; and we are moving the legislative framework of mental health into the twenty-first century. Mrs Carnell is correct in saying that a challenge remains to ensure that we can properly resource the issue. It is a challenge not just for me, as Health Minister, but also for my colleague Mr Lamont, as Community Services Minister, because there is a continuum of problem from Community Services through to Health. I hope that the Government will prove to be up to the challenge. I am confident that the cooperative approach we have had will do it.

Again I thank members very much for dealing with such a difficult issue so well. I thank all the officers who have been involved over a lengthy period. I thank the chair and members of the committee, who took seriously what could easily have been a partisan debate in which we threw rocks at one another and went out and postured to the media. Nothing gets a headline like mental health. We could have had great fun with this Bill, booting it around the house. Instead, members on all sides chose to be productive and constructive, and they came up with a compromise. I thank everyone involved in the process.

MS ELLIS: Madam Speaker, I seek leave to make a brief statement in this debate.

Leave granted.

MS ELLIS: As chair of the Standing Committee on Social Policy, I feel that I need to add a few brief words to this debate. In doing so, I would like to refer back to some comments that I made during the presentation of the committee's report to the Assembly in April. At that time I referred to the enormous difficulties, widely recognised, in attempting to formulate a reform Bill such as this. Many people had many views on how they thought the matter should be approached. It was evident to our committee that, if we attempted to please all of them, responding positively to each of their concerns, change or reform would never happen.

I quote briefly from the presentation speech that I made at that time:

The committee could not agree on how best to resolve the issues involved with reforming mental health legislation and, as a result, various members of the committee ... are not entirely happy with different parts of the Bill. However, the committee was unanimous in the belief that the regime we have at present is inadequate and that something needs to be done now.

Madam Speaker, may I add here my sincere thanks and recognition of the difficulties that my fellow committee members - in fact, all of us - had in finalising that work.

Since the tabling of the Mental Health (Treatment and Care) Bill 1994 on 16 June and with today's debate nearing, I have received a number of letters from people stating their objections to the Bill or parts of the Bill. I acknowledge that they have their views. However, I note that, in many cases, those views are not dissimilar to views expressed to our committee and during the three- to four-year inquiry period leading up to our report. It goes without saying that any reform in the area of mental health will always need to be thoroughly debated and will probably always be controversial.

With the acceptance of the committee recommendations concerning ongoing monitoring of the processes, resources and the sunset clause provisions, I believe that the time has come to encourage positive adoption of this Bill in our community. The reforms are badly needed. I hope that the whole community, regardless of any doubts, will give this very important and much needed reform a chance to be effective. I am saying that on behalf of everyone in this place, I believe, for the sake of those in our community who actually need these reforms.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (5.00): Madam Speaker, I seek leave to move together the six amendments that have been circulated in the Minister's name.

MADAM SPEAKER: On behalf of the Minister?

MR LAMONT: On behalf of the Minister.

Leave granted.

MR LAMONT: Madam Speaker, I move the following amendments and present a supplementary explanatory memorandum:

Page 16, line 17, clause 27, paragraph (1)(c), omit the paragraph, substitute the following paragraph:

"(c) the person -

(i) has refused to consent to the order; or

(ii) is incapable of weighing for himself or herself the considerations involved in making a decision whether to consent to the order; and".

Page 27, line 10, clause 93, subclause (2), omit "(f), (g) or (h)", substitute "(f) or (g)".

Page 51, line 3, clause 103, paragraph (1)(a), omit "and" (last occurring).

Page 51, line 5, clause 103, paragraph (1), add the following paragraphs:

"(c) if the person has a guardian under the *Guardianship and Management of Property Act 1991* - the guardian; and

(d) if the person has an attorney appointed under the *Powers of Attorney Act 1956* and the Tribunal considers it appropriate to do so - the attorney.".

Page 63, line 31, clause 141, add the following subclause:

"(5) Subsections 214(3) and (4) of the *Magistrates Court Act 1930* apply in relation to an appeal under this section as if it were an appeal referred to in subsection 214(1) of that Act.".

Page 64, line 11, after clause 143 insert the following new clause:

Relationship with *Mental Health Act 1962*

"143A. (1) A doctor is not entitled to give a certificate in respect of a person for the purposes of the *Mental Health Act 1962* without the consent of the Tribunal.

"(2) An application for the consent of the Tribunal shall be made in writing by the doctor proposing to give the certificate and shall be accompanied by a statutory declaration setting out detailed reasons as to why the doctor believes the certificate should be given.

"(3) Divisions 2 and 3 of Part IV (other than section 36) and Division 2 of Part IX apply to the Tribunal in giving consent under this section as if the Tribunal were making a mental health order.".

Amendments agreed to.

Bill, as whole, as amended, agreed to.

Bill, as amended, agreed to.

MENTAL HEALTH (CONSEQUENTIAL PROVISIONS) BILL 1994

Debate resumed from 16 June 1994, on motion by Mr Connolly:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (5.01): Madam Speaker, I seek leave to move together, on behalf of the Minister, the four amendments that have been circulated in his name.

Leave granted.

MR LAMONT: Madam Speaker, I move the following amendments and present a supplementary explanatory memorandum:

Page 10, lines 32 to 34, clause 31, omit the clause, substitute the following clause:

Repeal of Lunacy Act 1898 (NSW)

"31. The Lunacy Act 1898 (NSW) in its application in the Territory is repealed.".

Page 11, line 5, add at the end of Part V the following clauses:

Guardianship and Management of Property Act 1991

"33A. (1) In this section, "Principal Act" means the *Guardianship and Management of Property Act 1991*.

"(2) Section 4 of the Principal Act is amended -

(a) by omitting "or" from paragraph (e) of the definition of "prescribed medical procedure";

(b) by inserting after paragraph (e) of the definition of "prescribed medical procedure" the following paragraph:

"(ea) treatment for psychiatric illness, convulsive therapy or psychiatric surgery; or"; and

(c) by inserting the following definitions:

"'convulsive therapy' means a procedure for the induction of an epileptiform convulsion in a person;

'neurosurgery' means surgery on the brain of a person for the purpose of treating a pathological condition of the physical structure of the brain;

'psychiatric illness' means a condition that seriously impairs (either temporarily or permanently) the mental functioning of a person and is characterised by the presence in the person of any of the following symptoms:

(a) delusions;

(b) hallucinations;

(c) serious disorder of thought form;

(d) a severe disturbance of mood;

(e) sustained or repeated irrational behaviour indicating the presence of the symptoms referred to in paragraph (a), (b), (c) or (d);

'psychiatric surgery' means surgery on the brain of a person, other than neurosurgery;".

"(3) Section 70 of the Principal Act is amended by inserting in subsection (1) "(other than treatment for psychiatric illness, convulsive therapy or psychiatric surgery)" after "prescribed medical procedure".

Schedule

"33B. The laws specified in the Schedule are amended as set out in the Schedule.".

Page 12, line 31, proposed Schedule, add at the end of the Bill the following Schedule:

SCHEDULE Section 33B

Agents Act 1968

"Paragraph 3(1)(a), omit "the master in lunacy, the committee of the estate of a lunatic, the manager of the estate of an incapable person", substitute "a manager under the Guardianship and Management of Property Act 1991".

Architects Act 1959

"Subsection 22(1), omit "the person" (first occurring), substitute "a person".

"Paragraph 22(1)(d), omit the paragraph, substitute the following paragraph:

"(d) if the Board is satisfied that, because of mental incapacity, the person is incapable of practising as an architect; or".

Bushfire Act 1936

"Paragraph 5F(a), omit "lunacy", substitute "mental incapacity".

Conveyancing Act, 1919 (NSW)
as applied and modified in the Territory
by the Conveyancing Act 1951

"Paragraph 78(1)(F), omit "Master in Lunacy, or as committee or manager of the estate of any insane or incapable person within the meaning of the Lunacy Act of 1898", substitute "a manager under the Guardianship and Management of Property Act 1991".

"Subsection 78(4), omit "Master in Lunacy, or as committee or manager of the estate of any insane or incapable person within the meaning of the Lunacy Act of 1898", substitute "a manager under the Guardianship and Management of Property Act 1991".

Conveyancing Acts, 1919-1954 (NSW)
as applied and modified in the Territory
by the Trustee Act 1957

"Subsection 7(1) (the combined definition of "Insane person", "Insane patient", and "Incapable person"), omit the definition.

"Subsection 66A(2), omit all the words after "infant", substitute "or of the manager of the person's property under the Guardianship and Management of Property Act 1991, or if there is no such guardian or manager, the consent of the court".

"Subsection 66D(4), omit the subsection, substitute the following subsections:

"(4) If a share in the net proceeds belongs to a person who has a physical, mental, psychological or intellectual condition relevant to section 8 of the Guardianship and Management of Property Act 1991, the consent of -

(a) the manager of the person's property under that Act; or

(b) if there is no such manager - the court;

shall be sufficient to protect the trustees for sale.

"(4A) If a share in the net proceeds is affected by an incumbrance, the trustees for sale may either -

(a) give effect to the incumbrance; or

(b) provide for the discharge of the incumbrance out of the property allotted in respect of the share;

as the trustees consider expedient..".

Conveyancing and Law of Property Act 1898 (NSW)
in its application in the Territory

"Subsection 70(1), omit all the words from and including "committees" to and including "patients", substitute "managers of persons' property under the Guardianship and Management of Property Act 1991".

"Subsection 70(2), omit the subsection, substitute the following subsection:

"(2) No application, consent to an application, or notification respecting an application may be made or given by -

(a) the guardian of a tenant in tail who is an infant; or

(b) the manager of the property of a tenant in tail under the *Guardianship and Management of Property Act 1991* where the tenant in tail has a physical, mental, psychological or intellectual condition relevant to section 8 of that Act;

without the special direction of the Court.".

Co-operative Societies Act 1939

"Paragraph 51(11)(b), omit the paragraph, substitute the following paragraph:

"(b) if he or she becomes mentally incapable;".

Coroners Act 1956

"Subparagraph 11(1)(i)(ii), omit 'treatment order, under the Mental Health Act 1983', substitute 'mental health order, under the Mental Health (Treatment and Care) Act 1994".

Limitation Act 1985

"Subsection 31(7), omit the subsection, substitute the following subsection:

"(7) In this section, 'guardian' means a guardian or manager under the Guardianship and Management of Property Act 1991.".

Magistrates Court Act 1930

"Subsection 147(2B), omit all the words after "l968".

"Subparagraph 248C(2)(c)(vii), omit the subparagraph, substitute the following subparagraph:

"(vii) under the Mental Health (Treatment and Care) Act 1994; or".

New South Wales Acts Act 1986

"Section 9, repeal the section.

Powers of Attorney Act 1956

"Paragraph 5(3)(b), omit "lunacy, unsoundness of mind", substitute "mental incapacity".

"Paragraphs 6(1)(a), (b) and (c), omit "lunacy, unsoundness of mind", substitute "mental incapacity".

"Paragraphs 7(1)(a), (b) and (c), omit "lunacy, unsoundness of mind", substitute "mental incapacity".

Public Health (Private Hospitals) Regulations

"Paragraph 12(1)(a), add "or".

"Paragraph 12(1)(b), omit "or".

"Paragraph 12(1)(c), omit the paragraph.

Real Property Act 1925

"Paragraph 14(1)(e), omit "lunacy, unsoundness of mind", substitute "mental incapacity".

"Paragraph 18(2)(g), omit the paragraph, substitute the following paragraph:

"(g) the manager of a person's property under the Guardianship and Management of Property Act 199l.".

Registration of Births, Deaths and Marriages Act 1963

"Subparagraph 34(5)(h)(ii), omit "treatment order, under the Mental Health Act 1983", substitute "mental health order, under the Mental Health (Treatment and Care) Act 1994".

Supreme Court Act 1933

"Sub-subparagraph 37B(2)(c)(v)(G), omit the sub-subparagraph, substitute the following sub-subparagraph:

"(G) the Mental Health (Treatment and Care) Act 1994;".

"Sub-subparagraph 37B(2)(c)(vi)(B), omit "Mental Health Act 1983", substitute "Mental Health (Treatment and Care) Act 1994".

Supreme Court (Fees) Regulations

"Paragraphs 2(2)(a) and (c), omit "Mental Health Act 1983", substitute "Mental Health (Treatment and Care) Act 1994".

Trustee Act, 1925-1942 (NSW)
in its application in the Territory

"Section 5 (definitions of "Incapable person" and "Insane person"), omit the definitions.

"Paragraphs 46(7)(b) and (c), omit the paragraphs, substitute the following paragraph:

"(b) is mentally incapable, the consent may be given on his or her behalf -

(i) by the guardian of the person, or the manager of the person's property, under the Guardianship and Management of Property Act 1991; or

(ii) if there is no such guardian or manager - by the Court; or".

"Paragraph 46(8)(b), omit the paragraph, substitute the following paragraph:

"(b) a person who is mentally incapable, where there is neither a guardian of the person nor a manager of the person's property under the Guardianship and Management of Property Act 1991; or".

"Subsection 46(14), omit the subsection.

"Subsection 47(3) -

(a) Omit "an infant, an insane person or an incapable person", substitute "an infant or a person who is mentally incapable".

(b) Omit "the infant, insane person or incapable person", substitute "the infant or mentally incapable person".

"Paragraph 71(2)(e), omit the paragraph, substitute the following paragraph:

"(e) where a trustee is mentally incapable;".

"Section 74 -

(a) Omit "an infant, or is an insane or an incapable person or person of unsound mind", substitute "an infant or is mentally incapable".

(b) Omit "an infant, or insane or incapable person, or person of unsound mind", substitute "an infant or a mentally incapable person".

"Section 89, repeal the section.

Trustee Act 1957

"Paragraph 9(c), omit the paragraph.

"Paragraph 12(b), omit the paragraph.

"Subsection 13(1) (definition of "resumption"), omit "and".

"Subsection 13(1) (definition of "the Master in Lunacy"), omit the definition.

"Subsection 13(7), omit the subsection, substitute the following subsection:

"(7) Where a person who has a physical, mental, psychological or intellectual condition relevant to section 8 of the *Guardianship and Management of Property Act 1991* would be entitled to the income from land resumed if that land had not been resumed, a trustee or personal representative may, with the consent of -

(a) the guardian of the person, or the manager of the person's property, under the Guardianship and Management of Property Act 1991; or

(b) if there is no such guardian or manager - the court;

apply the compensation money in a manner authorised by subsection (6).".

NOTE ABOUT SECTION HEADING

On the day on which section 30 of this Act commences, the heading to section 74 of the Trustee Act, 1925-1942 (NSW) in its application in the Territory is omitted and the following heading substituted: **"Mortgagee under disability".**

Page 1, title, after "1983,", insert "to repeal the Lunacy Act 1898 (NSW) in its application in the Territory,".

Amendments agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

CRIMES (AMENDMENT) BILL 1994

Debate resumed from 16 June 1994, on motion by Mr Connolly:

That this Bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

PROPOSED SELECT COMMITTEE

MR STEVENSON (5.03): Madam Speaker, I seek leave to move a motion to appoint a select committee.

Leave granted.

MADAM SPEAKER: Can we have a copy of the motion? Until we see it, we do not know what you are doing, Mr Stevenson. It has to be circulated; otherwise, you cannot move it. Are people aware of the contents of this motion, Mr Stevenson?

MR STEVENSON: No, not everybody.

MADAM SPEAKER: Then we will wait while it is circulated. In other circumstances I would let you speak, but on this occasion we will wait.

Now that your motion has been circulated, Mr Stevenson, you may move it.

MR STEVENSON: Thank you, Madam Speaker. I move:

Select Committee - Membership: Four members, one member from each Assembly grouping as notified to the Speaker.

Terms of reference:

(1) Inquire into and report on the following matters -

(a) The advisability of introducing a law to give citizens the right to introduce, amend and repeal legislation with particular regard to the Electors Initiative and Referendum Bill 1994 [No. 2] and the Community Referendum Bill 1994.

I apologise to members for the late timing on this motion and for the fact that I have not had a chance to talk to everybody about it. It is not drafted as well as I would have liked; but, unfortunately, time is running away from me. I thought there would be more time. As members know, I introduced into the Assembly some 10 months ago a Bill similar to the one Mrs Carnell introduced yesterday.

Mr Lamont and other members seem to be fairly concerned about the wording of the motion. As I said, it is basically a draft. I have not had time to write it out in full. I will be happy to expand on the abbreviations. The terms of reference of the proposed committee would be to inquire into and report on the following matters: The advisability of introducing a law to give citizens the right to introduce, amend or repeal legislation in

the ACT with particular regard to the Electors Initiative and Referendum Bill 1994 [No. 2] and the Community Referendum Bill 1994. There would be four members of the committee: Mr Moore, me and two members to be nominated to the Speaker by the Liberal Party and the Labor Party. The reporting date, which I would need to include, would be in the first sitting week in October - the week of the 11th, 12th and 13th. In other words, the committee would have to report by 13 October - - -

Mr Berry: It is not in the motion.

MR STEVENSON: I need to put that in the motion.

Mr Humphries: What are you doing, Dennis? Is this the Assembly or a place where you make it up as you go along?

MR STEVENSON: I did mention that time had got away from me.

Mr Humphries: You have only had 2½ days!

MADAM SPEAKER: Order! We have a motion before us. Members will be free to amend it or postpone it. We will just let Mr Stevenson finish speaking.

MR STEVENSON: I have spoken to the Liberal Party. They felt that early in the October session would be a better time for the committee to report. I felt - - -

Mr Humphries: No, that is not true.

MR STEVENSON: If that is the case, perhaps I can include 10 November as the reporting date. The other reason that I brought this motion on today is that we already have a time problem in inquiring into this matter. There is a great deal of work to be done if the matter is to be inquired into, and it is already late in this sitting period. If we are to move on such an inquiry, I strongly suggest that we need to move now. That extra three weeks is important. Given more time, I can obviously write the motion out correctly.

MR BERRY (Manager of Government Business) (5.10): Madam Speaker, I have discussed this matter with Mr Stevenson, and in principle I have agreed with him that it is a reasonable proposal; but the problem is that it all happened at 11.55, and in that sort of timeframe it is really impossible to put together a motion which makes real sense and talks about terms of reference, reporting time, membership and all those sorts of things. Regrettably, this motion does not go anywhere near where we need it to go. It was just an unfortunate turn of events that we were stuck with the absence of sufficient time to put together a motion which would be supported by the majority and palatable to the rest. On that basis, I recommend, if you can find it within your heart to do so, that you seek leave to withdraw the motion, Mr Stevenson. We could not support the motion in its current form, because it does not sort out all of the issues.

MR MOORE (5.11): Madam Speaker, this issue was raised publicly by Ms Szuty, who unfortunately cannot speak just at the moment. We support the notion of establishing a committee. We wanted to look carefully at Mrs Carnell's Bill and carefully prepare the terms of reference. We wanted the inquiry to include not only Mrs Carnell's Bill but also Mr Stevenson's first and second Bills so that we could see what the differences were. We wanted it to include also the Bill that Mr Prowse tabled in the First Assembly. We wanted to look at the issues in full and to ensure that everything was done properly. The issue that we are dealing with is one of fundamental change to the political nature of this area and would be a precedent in Australia. Therefore, this inquiry cannot be done in a half-baked way. That is why I hope that Mr Stevenson will take Mr Berry's advice and withdraw this motion now. Let us do it properly at the next sittings.

MR HUMPHRIES (5.12): Madam Speaker, I also oppose this motion, partly because I cannot even read it. It refers to the admissibility of introducing a law to give, as I read it, "cit the pit". I do not know what that means, Madam Speaker. It also refers to what I think is "EIR(2)94" and "CR94". I do not know what it means, Madam Speaker. I think I can work out the words at the top of the page, which talk basically about Mr Stevenson being on a committee. What a turn-up for the books - Mr Stevenson actually getting onto a committee in the Assembly! This sounds remarkable. A man who has not put in a day's work on an Assembly committee in nearly three years, and who presumably expects to get re-elected in February next year, now fronts up saying, "I insist on a place on a committee". I think it is pretty poor, Madam Speaker. I think this motion is half-baked and should be thrown out.

MR STEVENSON (5.13), in reply: I will take the points in the order in which they were raised. First of all, Mr Berry, I am prepared to withdraw the motion. As I said, it was a draft, and time is limited. However, the more important point is that if there is going to be an inquiry into this matter it should go ahead now rather than in three weeks' time. We heard the expression "half-baked". Time is critical. One can amend this motion. If there is an intention on the part of certain members of the Assembly to fix it up, by all means fix it up. I wanted to avoid waiting for another three weeks. Some people have spent hundreds upon hundreds of hours in this area. We cannot expect the committee to do the job correctly in a short period of time. That is something that committees normally do not do. I do not say that it is impossible, but there would need to be a commitment that I have not seen in this Assembly.

Mr Humphries raised the point that I have not been on a committee in this term. That is quite true. Let me make the point that I went on committees in the First Assembly and was blocked by the Liberal Party and blocked by the Labor Party on three committees.

Mr Lamont: The dinosaurs have just about forgotten that one, Dennis. Mr Stefaniak would remember.

MR STEVENSON: Bill would remember well. He was one of the people who voted against it. Mr Lamont can talk, because he was not here at the time and did not vote against it.

Mr Lamont: If I had been here, I would have.

MR STEVENSON: I would not doubt it. But let us have a look at what the Assembly is about. The Assembly should not be about politicking to serve themselves but rather about serving the electorate. The suggestion by some members that I should not be on a committee is one of the concerns I have. I have spent a great deal of time researching the matter and have something worth while to present on behalf of Canberrans.

I will not belabour the point, but if you are going to form a committee - and I have no doubt that that is the intention - you should form it this session; not wait for three weeks, close to the end of the year. I seek leave to withdraw the motion.

Leave granted.

Motion, by leave, withdrawn.

ADJOURNMENT

Motion (by Mr Berry) proposed:

That the Assembly do now adjourn.

Mal Meninga

MS FOLLETT (Chief Minister and Treasurer) (5.17): Madam Speaker, I would like to take advantage of the adjournment debate to mark a particular point in Canberra's history. Mal Meninga played his last home game at Bruce Stadium last Sunday. On that day, of course - - -

Mr Kaine: Can we all sing the Mal Meninga song before you go?

MS FOLLETT: Yes, you can. The Canberra community came out in force to say farewell to our great champion, and the western stand was named after Mal Meninga in recognition of his football achievements and his commitment to Canberra. A great deal has been written about Mal Meninga, particularly by sports writers. Of course, his sporting achievements have also been documented. They really are remarkable. He has the most test appearances for Australia - 42. He has played 31 State of origin games, which is the equal of Wally Lewis. He has scored the most origin points - 161 points altogether.

Mr Kaine: How many points do you get for a field goal, Rosemary?

MS FOLLETT: Only one. He has had three Kangaroo tours. He had played 159 games for the Raiders up to round 21, and had, at that point, scored 840 points for the Raiders. Of course, he scored a couple of points last Sunday as well. The Canberra Raiders won the premiership in 1989 and 1990.

I think everyone in the Assembly would want to join with me in wishing Mal all the very best in adding a couple more achievements to his wonderful list of records - the 1994 premiership and a fourth Kangaroo tour.

Mr Stevenson: A successful tour.

MS FOLLETT: A successful tour; indeed, Mr Stevenson. Mal Meninga is more than a great footballer. He has been a wonderful role model for the children and the young people in our community. He is a person whom the whole community respects for his courage and his determination in coming back after his arm had been broken, I think, four times, for his true sportsmanship, for his strong community spirit and for his devotion to his family.

Mal Meninga has also taken the human side of Canberra into the lounge rooms of Australia, and he has proven yet again that Canberra is no longer just the home of Federal politicians but is indeed a city with a very strong and very proud sporting tradition. Mal Meninga and the Raiders have played a major role in changing that perception about Canberra and in developing our own community spirit at the same time. I am sure that all members would join with me in thanking Mal Meninga for his contribution to the Canberra community so far.

Mrs Carnell: He still has to win on Sunday.

MS FOLLETT: I have no doubt that he will win on Sunday. We wish him and his wife, Debbie, and their children, Tamika and Joshua, all the very best in whatever future they choose.

Kieren Perkins

MR MOORE (5.20): Madam Speaker, on the same sporting note, I think it is also appropriate for us to recognise what has been achieved in Victoria, Canada, through the last week but particularly today. Anybody who had time at lunchtime to watch the 1,500-metre race would have seen Kieren Perkins break the 1,500-metre world record and the 800-metre world record in the same race. It was a most extraordinary thing. The pride of Australians in such sporting feats was referred to by the Chief Minister when she spoke of Mal Meninga. In supporting what she said, I would also like to recognise what our young Australians have done for the spirit of this great nation of ours.

Planning, Development and Infrastructure Committee

MR DE DOMENICO (5.21): On a day when everyone is talking about milestones and when Mr Stevenson, in referring to committees, said that politicians should not be looking after themselves but looking after the people, I am delighted to state that next Friday week the Planning, Development and Infrastructure Committee will meet for the 100th time. Whilst some people might say that politicians tend to look after themselves, I can assure Mr Stevenson - as can Mr Kaine, Mr Lamont, Mr Berry, Ms Ellis, Mr Cornwell and others who have been members of that committee, read the voluminous paperwork and sat through many public inquiries - that the public have indeed been well served by the process of self-government. This is a milestone that this Assembly can be very proud of.

Rip and Tear Theatre

MS ELLIS (5.22): I had the pleasure last night of representing the Minister for Housing and Community Services, Mr Lamont, at a function run on behalf of and by the Richmond Fellowship in the ACT. Whilst it was a very enjoyable function and it was terrific to see the fundraising effort on the part of that fellowship, something else came to my attention while I was there. It is linked with the National Festival of Australian Theatre which we are about to enjoy here in Canberra. It is important enough for me to bring it to people's attention in case they have not picked it up themselves.

Robyn Archer has to be congratulated on the incredibly broad program that she has been able to bring together in this theatre festival, but one of the important events is an item in the program that is going to be performed by the Rip and Tear Theatre from Burnie in Tasmania. For those who do not know, the Rip and Tear Theatre, as I found out last night, is a creation of a program funded by DEET - the Federal department - and by other means, and is specifically aimed at young offenders and young people with problems. Its success has been such that it can now rate as a legitimate part of a program such as that of the National Festival of Australian Theatre.

The Richmond Fellowship, which works with young offenders in the ACT, will shortly be going to Burnie with some of their trainers and some of their young people to learn first-hand the benefits of the sort of work being done by the Rip and Tear Theatre and to bring that expertise back here. I know that a lot of people in this place care very much about our young people, particularly those in this category that I am speaking of. I have taken steps today to make sure that I go along when this theatre company is here and see the sort of work they do. I encourage everybody in this place to seriously consider doing likewise. It sounds very much like an incredibly positive program to help youngsters who are having problems. I recommend that people take advantage of the opportunity. Mr Moore has just brought to my attention, and I think it is worthy of note, that Tina Van Raay was instrumental in bringing them to the ACT. I am happy to acknowledge that. I think that anything that anybody does to help young people in this area of need is to be commended. I hope that at some stage in the future we can all compare notes on what we thought of the performance of the Rip and Tear Theatre.

Tibet

MR STEFANIAK (5.25): Madam Speaker, I endorse the remarks made by Ms Follett and Mr Moore in relation to Mal Meninga and our other sporting heroes. I rise, however, in relation to a different matter, Madam Speaker. At lunchtime today Mr Humphries and I saw Tsering Norzom, vice-president of the Tibetan Women's Association. She is visiting Canberra with a delegation to raise awareness of the plight of women in occupied Tibet in the lead-up to the United Nations conference on women to be held in Beijing in 1995.

As members are perhaps aware, there is only a small Tibetan community of some 70 people in Canberra. Tibet has been under the occupation of China effectively since 1959. Tibet, throughout its history, has largely been an independent country and at times an autonomous country dependent on China. China invaded Tibet in the eighteenth century but the presence did not last long. Tibet was a suzerainty country of the Chinese Empire in the last century, and the Chinese had minimal, if any, control of Tibet. In 1910 China again invaded Tibet, but that invasion was short lived. The Chinese Empire collapsed on 10 October 1911, when there was a revolution, and Tibet again became autonomous. In 1949 the communists again invaded Tibet. The Chinese did not, at that stage, impose a particularly draconian regime on Tibet. However, they imposed a creeping form of communism which the Tibetan people resisted in 1959, which led to a massive invasion. At that time, Madam Speaker, there were some seven to eight million Tibetans. Now, sadly, there are only six million. Tibet had most of its cultural heritage, most of its monasteries and many of its old buildings flattened during the great cultural revolution in the late 1960s. The Chinese Government at present is continuing a system of oppression in Tibet. There are some vague attempts to rebuild several monasteries, mainly for tourism.

Ms Norzom, when she spoke to Mr Humphries and me, expressed concern in relation to a number of areas. She spoke of a continual influx of Chinese and restrictions on the right of Tibetan women to have children. There are fines and severe penalties if you have more than one child in Lhasa. She was very concerned about the Chinese Government attempting to destroy traditional Tibetan values and traditional Tibetan homes in Lhasa and placing great restrictions on Tibetan religion. There is no right of free speech. Of particular note was the fact that 14 Tibetan nuns who are in prison and who sang a national song had their prison sentences increased from seven years to 14 years.

Ms Norzom is very keen for the Tibetan women in exile to go to the conference in Beijing. They have applied to the United Nations to enable them to go. They are very concerned that if they do go they will be arrested and imprisoned, or worse, by the Chinese authorities. They are seeking from parliamentarians in Australia support for Tibet and support for the Tibetan women in exile to be able to send a delegation to the United Nations conference on women in Beijing. The theme throughout that conference will be equality, peace and development. I certainly think it would be most hypocritical if Ms Norzom and her colleagues were denied the ability to go to that conference.

People can write to the Chinese Embassy expressing their concern. They can also talk to our Federal colleagues of all political persuasions, to bring to their attention the plight of not only Ms Norzom and the women of Tibet but the Tibetan people in general. Cultural genocide is going on in Tibet, according to Ms Norzom. It is certainly disturbing when the population of a country decreases by about two million over the space of 30 years.

Margaret Holt

MRS CARNELL (Leader of the Opposition) (5.29): While we are congratulating sporting champions, I think it is appropriate to speak about an ACT sporting champion, Margaret Holt, who grew up in Kambah and recently won the world female karate title for the second time. Margaret returned from the world championships with three gold medals. She was part of the 11-member Australian team, which included two juniors. There were more than 400 competitors at the world championships.

Margaret recently won the ACT championship for the fourth time, being one of three women to pit their skills against the men for the title. I think that made many of the men cringe. She also won her second national karate title this year. She is looking for a sponsor so that she will be able to go to the Japanese national titles. It is the Japanese titles which are the premier event of the year. It is very unfortunate that somebody from the ACT who is a world champion and has really achieved in sport cannot get a sponsor to enable her to travel to Japan. I certainly hope that the people of the ACT support her.

Women's Sport : Floriade Bus Services

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (5.30): I intend to speak on another matter; but Mrs Carnell can rest assured that that will be happening not just because this person is a recognised world champion but also because there is - - -

Ms Follett: She beats up blokes! That is good enough for me.

MR LAMONT: I am not sure whether that comment will be in *Hansard*. Do you want to repeat it, Chief Minister? The simple fact is that the promotion of women's sport is a matter that this Government is giving special attention to, and I am confident that when the 2000 Committee reports there will be special provision within that report to take account of this very important issue, as I am confident that the 2000 Committee will provide the basis for us to establish a blueprint for activity in this Territory in the lead-up to the Olympics and beyond.

Madam Speaker, I wanted to talk about another matter that, on this day when we are considering the Appropriation Bill, it is appropriate I alert the Assembly to. It has to do with Floriade, which is to occur this year between Saturday, 17 September, and Sunday, 16 October, and in particular ACTION's involvement with Floriade. ACTION have from time to time been vilified by some of the people within this Assembly, particularly successive Opposition spokespersons on public transport, for doing a whole range of things. Most of these allegations have been successfully refuted by me and by previous Ministers.

I think it is important to understand that ACTION provide a substantial service to guarantee the success of Floriade each year - that is, a free shuttle service from the city interchange to Regatta Point in Commonwealth Park. The service will operate this year as it has in previous years. From 10.20 am buses will depart from the city every half-hour until 4.20 pm, and the return service will operate from Regatta Point at half-hourly intervals between 10.40 am and 4.40 pm.

In addition, we provide tourist route 901. That is a fare paying service which operates throughout the year but which people are able to use to take themselves to Floriade. I think it is important, Madam Speaker, that I place on the public record the simple fact that this service that operates for the economic, recreational and tourism benefit of the ACT is quite pridefully undertaken by ACTION. I feel quite pleased this afternoon to be able to announce that that service also will continue during this year's Floriade.

Question resolved in the affirmative.

Assembly adjourned at 5.33 pm until Tuesday, 13 September 1994, at 2.30 pm

Blank page.

ANSWERS TO QUESTIONS

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1297

Mentally Ill Adolescents Facility

MR MOORE Asked the Chief Minister upon notice on 19 May 1994:

In relation to a fully staffed facility for the mentally ill in the ACT, you gave your assurance in a letter in March 1993 that a "residential facility be established to provide services and support" for those requiring that facility. You also stated that "arrangements were currently in place to recruit appropriate staff and to make the necessary arrangements for the physical aspects of the service".

(1) When will the promised facility for adolescents requiring mental health treatment in the ACT be opened?

(2) When will you announce the composition and number of staff that have been recruited to service this facility?

MS FOLLETT The answer to the Members question is as follows:

(1) My letter of 18 March 1993 refers to the development of a facility for a particular client, not a specific facility for mentally disturbed adolescents, as inferred by your question. Following inter-agency consideration of the particular needs of this client, a service, which provided a therapeutic response and support to the client in question, was established and will continue to provide a service when appropriate. This service is the Acute Behaviour Management Service which was established in July 1993.

The Service provides intensive behaviour modification and life skills programs to a small number of people 18 years and over who display extremely difficult and challenging behaviours in the community. The program is intensive and delivered to clients in their own environment rather than in a special residential facility. The aim is to provide clients with better coping skills for life in the community. Where clients have not had suitable accommodation, houses have been procured through the Housing Trust.

(2) As outlined in my answer to Part (1), the Acute Behaviour Management Service is a service which operates in conjunction with appropriate accommodation facilities tailored to meet the individual needs of particular clients, rather than a specific residential facility. Staff have been engaged temporarily, however, action is in progress to permanently recruit the following staff:

1 Manager (SOG C)
1 Psychologist (SPOG C)
I Project Officer (ASO 6)
2 Program Implementers
2 Senior Support Workers (part-time)
4 Support Workers (part-time)

ATTORNEY-GENERAL

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1322

Restraining Order Applications

MR CORNWELL - Asked the Attorney-General - In relation to restraining orders lodged Wednesday 15 June 1994 -

(1) How many were there?

(2) What were the ages of the applicants?

(3) How many of those applicants did or will receive free legal aid with regard to those applications?

(4) Without identifying any person involved, what were the reasons given on those applications for restraining orders?

(5) Did anyone, either court staff or otherwise (for example from a community group) assist the applicants with filling out forms?

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

(1) There were three applications.

(2) - (5) The member has ostensibly sought general information but has related that request to a particular day on which, as the answer to Question 1 indicates, there were only three applications. In relation to the remainder of the questions it should be noted that section 206P of the Magistrates Court Act 1930 prohibits publication of restraining order proceedings if the publication identifies either a party to the proceedings, a witness, someone associated with a party to the proceedings or concerned in the matter to which the proceedings relate. Section 92 of the Legal Aid Act 1977 prohibits officers and Commissioners and others associated with the Legal Aid Commission from divulging information concerning the affairs of another person acquired by reason of their office or employment or in performance of their functions under that Act. Breaches of these prohibitions are criminal offences.

Over and above the statutory requirements there are privacy concerns about disclosing the information sought. Given the small number of applications on that day and the specific nature of the question asked by the member it appears that he already has some knowledge or suspicions about the applicants. I also have reservations as to the extent to which it is appropriate for me, as AttorneyGeneral, to be answering questions concerning civil proceedings before a Court, which relate solely to the particular circumstances of those cases and the manner in which the parties developed and presented their cases.

2760

For these reasons, it is not appropriate that I should provide the information sought in questions (2) - (5).

Of course, I am always prepared to provide non-specific statistics (where they are available) as to the operation of particular court jurisdictions and general information as to the practices and guidelines of the Legal Aid Commission.

2761

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No. 1334

Government Service - Commencement Reception

MR CORNWELL - Asked the Chief Minister upon notice on 23 August 1994:

In relation to the Reception on 6 July 1994 to celebrate the commencement of the separate ACT Government Service

(1) What was the name of the choir performing at the function.

(2) What were the songs sung at the reception and who chose them.

(3) Was one of the songs a gay rights anthem "Keep on Loving Boldly".

(4) Why was the choir deemed appropriate for this particular function and why were the particular songs deemed appropriate.

(5) What relevance did the choir or the songs have to the commencement of a separate ACT Government Service.

(6) Was the choir paid for its services and if so, how much.

MS FOLLETT - The answer to the Members question is as follows:

(1) The choir that performed at the Chief Ministers Reception are known as the "ACT Government Service Womens Choir".

(2) The songs performed by the Choir were "Never Turning Back", "Inaneay Capuana" and "Song of the Soul". They were chosen by the choir from their limited repertoire.

(3) No.

(4) The success of the Choirs previous performances during International Womens Week indicated that they would provide an entertaining interlude during the formal proceedings. The songs were deemed appropriate because their lyrics reflected the themes of strength, unity and looking forward which are appropriate characteristics of the new ACTGS. They were well received by the audience.

(5) The choir contains representatives from most ACTGS Agencies and the songs were chosen for the reasons above.

(6) No.

2762

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1373

Building Regulations - Penalties for Breaches

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

What penalties exist for breaches of the building regulations and how often has each of these penalties been enforced since the commencement of the Territory Plan.

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

The following offences carry penalties under the Building Act:

A building inspector failing to return an identity card on ceasing to be an inspector -$100.

Obstructing a building inspector - $5,000, 6 months imprisonment or both for a natural person; $25,000 for a body corporate.

Obstructing a building inspector on asbestos inspection - $5,000, 6 months imprisonment or both for a natural person; $25,000 for a body corporate.

Obstructing an inspector on Legionella inspection - $5,000, 6 months imprisonment or both for a natural person; $25,000 for a body corporate.

Carrying on building work not covered by a licence - $2,000 for a natural person; $10,000 for a body corporate.

Carrying out work involving asbestos that is not covered by a licence - $5,000 for a natural person; $25,000 for a corporate person.

Carrying on building work not in accordance with the Building Code - $5,000 for a natural person; $25,000 for a corporate person.

Carrying out building work without a permit - $2,000 for a natural person; $10,000 for a corporate person.

Carrying out building involving asbestos without a permit - $5,000 for a natural person; $25,000 for a corporate person.

2763

Passing an inspection stage - $1,000 for a natural person; $5,000 for a corporate person.

Operating a specialised system not in accordance with a licence - $2,000 for a natural person; $10,000 for a corporate person.

Failure to notify change of information in relation to a specialised system - $500 for a natural person; $2,500 for a corporate person.

Failure to comply with a stop notice or notice to carry out building work - $500 for a natural person; $2,500 for a corporate person.

Obstruction of entry for asbestos purposes - $1,000.

Failure to maintain or clean a specialised system - $5,000 for a natural person;
$25,000 for a corporate person. -

Failure to report unacceptable Legionella level - $5,000 for a natural person; $25,000 for a corporate person.

Failure to observe a shutdown notice for a specialised system - $500 for a natural person; $2,500 for a corporate person.

Ignoring a notice requiring further work - $1,000 for a natural person; $5,000 for a corporate person.

Failure to provide a certificate required for a certificate of occupancy - $1,000 for a natural person; $5,000 for a corporate person.

Use of the remainder of a building under-a certificate of partial occupancy - $1,000 for a natural person; $5,000 for a corporate person.

Use of a building as a class different from that for which the certificate of occupancy was issued - $1,000 for a natural person; $5,000 for a corporate person.

Ignoring a notice after conviction for an offence under one of the last two provisions cited - $500 for a natural person; $2,500 for a corporate person.

Not displaying a notice of the maximum floor loading - $1,000 for a natural person; $5,000 for a corporate person.

Allowing the maximum floor loading to be exceeded - $2,000 for a natural person; $10,000 for a corporate person.

An insurer falsely representing that a residential insurance policy is acceptable under the Act - $5,000.

False or misleading statements or omissions - $5,000, 6 months imprisonmnet or both for a natural person; $25,000 for a corporate person.

There have been no prosecutions under these provisions since the commencement of the Territory Plan.

APPENDIX 1: (Incorporated in Hansard on 23 August 1994 at page 2493)

TREASURER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION
WITHOUT NOTICE TAKEN ON NOTICE
16 JUNE 1994

MS FOLLETT: On 16 June Ms Szuty asked me a question about documents tabled in the Assembly on 12 May relating to budget supplementation.

MY ANSWER IS: In addition to the formal instruments tabled, a summary document (Attachment A) was also provided to show the impact of approved supplementation on programs. Whilst the program totals in this document were correct and all data contained within the columns properly shown, the column numbers were also added to the totals meaning column one was out by one, column two was out by two etc. A revised table was circulated to members as soon as the error was revealed. This in no way had any implications for the accuracy of the formal instruments tabled.

In a supplementary question Ms Szuty asked whether the revised table conformed with requests by the PAC in its report on "Monitoring of Budget Supplementation". The summary document tabled was in addition to the documents requested by the PAC. It was an interim document and as such was not reconcilable to end of year outcomes. The amount of $1,200 against Treasurers Advance shown in the document reflected a final charge against the Advance for an Act of Grace payment. This amount was shown as a charge against the Advance because it was not included, at that time, against any specific program supplementation.

On 8 August Members were provided with documentation reconciling all supplementation approved during 1993-94 to the end of year outcome. The presentation indicates that, as at 30 June 1994, $2.48m of Treasurers Advance was utilised across nine programs with savings to the Budget of $9.52m. Similarly, $5.587m of the provision for wage and salary increases was distributed across programs mainly for performance pay and for variations certified by the Industrial Relations Commission with savings of $1.313m. Overall, expenditure was $50m under original budget estimates. I wish to thank Ms Szuty for supplying these questions and I trust that the documents provided for the end of year outcome meet any concerns that may have been raised.

2765

Electronic copy of this page is not available but it is included in the printed Hansard.

Electronic copy of this page is not available but it is included in the printed Hansard.

APPENDIX 2:

(Incorporated in Hansard on 24 August 1994 at page 2605)

TREASURER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION
WITHOUT NOTICE TAKEN ON NOTICE
23 AUGUST 1994

MS FOLLETT: On 23 August Mr Stefaniak asked me a question about the higher than estimated revenue from Tobacco Franchise Fees in 1993-94.

MY ANSWER IS:

Tobacco Franchise Fees were expected to raise $25.5m in 1993-94.

Actual receipts amounted to $30.9m - $5.4m above the estimate.

The additional revenue is attributed to a larger payment from NSW than was expected at Budget time in respect of ACT fees incorrectly paid to NSW, and further success in compliance activity by Revenue Inspectors which identified significant underpayments from wholesalers.

In addition to the lump sum payments received, the compliance activity created an increased tax base and consequently, additional revenues on a permanent basis (estimated at $2.25m in 1994-95).

1 wish to thank Mr Stefaniak for his question.

2768

APPENDIX 3:

(Incorporated in Hansard on 24 August 1994 at page 2657)

COMMERCIAL AND TENANCY TRIBUNAL BILL

Madam Speaker, this Bill reflects timely recognition by the government of the apparent deterioration of the relationship between some landlords and their commercial and retail tenants in the ACT. I understand from the Ministers Presentation Speech, and subsequent briefings, that the ACT is not unique in this regard and that other Australian jurisdictions have enacted legislation in this area in an attempt to provide a more equitable balance between the rights of tenants and those of landlords. The high proportion of ACT retail outlets in large shopping centres, coupled with the major changes to retailing patterns and practices in shopping centres around Australia which include 24 hour shopping and changes to the retailing mix in these centres, makes the appropriate protection of commercial and retail tenants in the ACT even more important than in other Australian capital cities.

It is regrettable that this Bill is needed at all, Madam Speaker. It is reasonable to assume that the vast majority of transactions that occur between landlords and tenants are without dispute

and have no need for the provisions of the Code or the Bill. As in so many areas of our society, however, when goodwill breaks down there is need for a safety-net and, where disputes do occur between landlords and tenants, the Code and the Bill provide an appropriate means to resolve these disputes.

I understand that the governments original intention regarding this issue was to consult with landlords and tenants with the intent of developing a voluntary code of practice, rather than to enforce a code of practice by legislation. Despite an extremely lengthy process of consultation it has not been possible, I understand, to reach unanimous agreement with, and between, the parties involved and the government has felt compelled to introduce the Bill, and the Code, to the Assembly to ensure adequate protection under the law is achieved for commercial and retail tenants.

This Bill seeks to address this long-standing issue of imbalance of market power in the area of retail and commercial tenancies and to provide solutions to the questions of what should happen when landlords and tenants dispute the provisions of particular tenancies and, further, how tenants

can deal with lease provisions which appear to be particularly onerous.

I note that the government continued its efforts to reach consensus and agreement between landlord and tenant groups as the Bill and Draft Code of Practice were being developed, that these efforts continued following the tabling of the Bill and the Draft Code in the Assembly and that this process is still continuing. Indeed I was heartened to hear the Minister on radio this morning saying that the process of consultation with landlords, tenants and members of the Assembly would continue until the time the Assembly debates this Bill at the detail stage.

While the additional time that will be needed for further detailed comments to be taken into consideration is of some concern, I recognise that all parties are expending considerable effort in an attempt to achieve the best possible result.

In his presentation speech Mr Connolly referred to further discussions he intended to have with the Motor Trades Association about key money provisions. I would certainly be interested to understand the nature and outcome of those discussions. Would I be right to assume, as I

have not been approached by the Motor Trades Association regarding this particular issue, that agreement has now been reached? I look forward to hearing Mr Connolly talk further about these discussions in his response at the completion of the in-principle debate.

Madam Speaker, I do have some argument with the proposed scope of the Bill. It would seem to me to be most appropriate that an almost agreed Code of Practice and an established tribunal to hear disputes should apply to all commercial and retail tenancies in the ACT without limitation. Certainly in the case of tenants that are large enough not to need the protection of the Code, the provisions of the Code would, in most cases, be irrelevant to both landlords and tenants as the turnover and drawing power of large tenants would normally enable them to protect their special interests. In the case of smaller commercial premises, that is those outside a shopping centre with a lettable area of less than 300 square metres, there could be some concern that the tenants may be disadvantaged by being excluded from coverage under the Code.

Madam Speaker, it is also important for members to note that there is an element of retrospectivity associated with some of the

provisions of the Bill. The Scrutiny of Bills Committee, in commenting on these provisions, has noted that, in the main, these provisions are qualified by only becoming operational after the substantive commencement date of the Bill.

I have spoken in the past in this Assembly about the need to avoid and oppose legislation which is retrospective in nature. However, -I feel that there are substantial grounds in relation to this Bill, and the issues it addresses, for retrospective provisions to be considered and implemented by this Assembly.

Of particular relevance in this context are the provisions of the Code dealing with "key money" and "ratchet clauses", and the provisions dealing with "harsh and oppressive" conduct. In the case of "key money" and "ratchet clauses" the Bill will apply to all leases, including those already in operation, but will only apply to attempts to enforce such clauses after the commencement of the Code. In the case of "harsh and oppressive" conduct the Bill will again apply to all leases but only to conduct occurring after the Codes commencement.

It could even be argued, Madam speaker, that the retrospectivity provisions of the Bill could be

strengthened if consensus continues to be achieved regarding the provisions of the Bill that are still under discussion.

Madam Speaker, I would now like to turn to the concept of mediation, and its application to the hearing of disputes, as it is currently embodied in the Bill.

I applaud the governments intent that disputes be attempted to be resolved in a consultative manner, rather than in an adversarial environment. Concern has been expressed to me, however, that, in the Bill, mediation is being used as an adjunct to litigation, rather than as a primary means of dispute resolution.

The Bill allows the Registrar to undertake informal, preliminary mediation, if he or she sees it as appropriate, before taking further action. If this is unsuccessful, and the Registrar is satisfied that a dispute exists, then the Registrar may refer the dispute to an approved mediator or, alternatively, hear the dispute himself or herself.

It has been suggested to me that, when mediation does occur, the outcomes would be the same whether mediation occurs straight away or later

in the process. It has also been suggested to me that under the current provisions of the Bill, when a hearing occurs, there is a substantial likelihood of adversarial positions becoming more entrenched, thus reducing the possibility of achieving a mutually agreed outcome.

There were strong views expressed to this effect at the National Access to Justice Forum, which was held in Parliament House on Monday and Tuesday of this week, that informal dispute resolution, or mediation, should be encouraged as the first step in resolving disputes, and that this mediation should not be linked to litigation processes.

I commend to the government the concept of mediation, by an approved mediator, being a first step in dealing with disputes under this Bill and Code.

Madam Speaker, as I said earlier substantial agreement exists between the partieson the provisions of the Bill and the Code. I welcome the governments efforts to reach consensus between landlord and tenant groups on the remaining outstanding issues which I understand include, from the tenants perspective, the scope of the Code (to which I alluded earlier), the

right of tenants to renew leases and the fact that existing lessees may be disadvantaged by limited retrospectivity. Not surprisingly landlords groups take a different view on these issues and, while acknowledging that some landlords have not been fair in the past, they do not accept the premise that landlords have all the power and, by inference, abuse that power.

Madam Speaker, I believe that this Bill is a constructive step forward in regularising the relationship between landlords and commercial and retail tenants in the ACT. While I support this Bill in principle, I shall be giving the Bill and the Code, and the amendments which have been foreshadowed, further careful consideration prior to debate at the detail stage of the Bill in the Assembly.

2776