DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

13 September 1994

Tuesday, 13 September 1994

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The Assembly met at 2.30 pm.

ABSENCE OF SPEAKER

The Clerk: I wish to inform the Assembly that the Speaker, Ms McRae, is absent from the Assembly. In accordance with standing order 6, the Deputy Speaker, Mr Cornwell, shall perform the duties of the Speaker.

MR ACTING SPEAKER (Mr Cornwell) thereupon took the chair and read the prayer.

DEATH OF MR J. NEWMAN, MP

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

That the Assembly expresses its deep regret at the death of Mr John Newman, a member of the New South Wales Legislative Assembly, and tenders its profound sympathy to his family and fiancee in their bereavement.

Mr Acting Speaker, members would be aware that the New South Wales State Member for Cabramatta, Mr John Newman, was tragically shot dead outside his home last Monday night. It was an outrageous, cowardly and senseless act of violence.

Born in December 1946 and educated in the Cabramatta and Liverpool area, and then later at Sydney University, John Newman dedicated his life to serving the public. He became an organiser for the Federated Clerks Union in 1969 and served as a State official for 17 years, also becoming a delegate to the New South Wales Labour Council and the ACTU Congress. He was elected to Fairfield City Council in 1977 and served as deputy mayor in 1985 and 1986. Mr Newman was also a member of the Joint Standing Committee on Road Safety - Staysafe - for six years, and a member of the Australian Sports Commission. After entering the New South Wales Parliament in 1986, John Newman undertook a fearless crusade against gang violence within his electorate. The fact that he continued to campaign for the improved safety of his constituents in spite of the constant threats against his own physical safety was testimony to his courage.

Mr Acting Speaker, we can only speculate at the moment about the reasons for Mr Newman's murder, and I do not intend to add to the speculation which has occurred over the past week. Time will tell whether this crime is ever understood and the perpetrators caught. But, whatever the reasons, I believe that we can and should make our response clear. I believe that the Australian community overwhelmingly supports the principle that violence is not a solution to differences between people, whether those differences are personal or political. In a country that prides itself on open and non-violent resolutions to political and other conflicts, the concept of a political assassination has always been anathema. The reality of such an act is a rude and disturbing awakening, and one which we must not allow to silence our freedom of speech, our political opinions and the pluralist nature of our society.

Mr Acting Speaker, I am sure that all members will join me in extending support and sympathy to all of those who, through this unthinkable act, have lost a friend and a loved one in John Newman. Our thoughts are especially with his fiancee, his mother and his family at this time.

MRS CARNELL (Leader of the Opposition): It is with much sadness that I and my colleagues support this motion of condolence and in doing so express our deepest sympathy to the friends, colleagues and family of John Newman. Words cannot adequately convey the sense of loss and the utter pointlessness of such a cruel and vicious murder. John Newman certainly had known tragedy. He had been through the grief of losing his wife and son in a car accident some 15 years ago; but, with strength, commitment, courage and lots of support from family and friends, he rebuilt his life to the point where he committed himself to serving the special needs of the people of his area, in particular the people of Cabramatta.

John was very community minded. He cared about people and was devoted to improving the well-being and opportunities of those around him. That was what drove him into public life. He was very active in encouraging participation in sport. He went out of his way to assist the local ethnic community. He served for many years as an alderman on the local Fairfield City Council, and he entered the New South Wales State Parliament in 1986. As a natural outcome of his concern to do the best for the people he represented, he became, as we all now know, an outspoken and vigorous anti-crime campaigner in the Cabramatta district.

Mr Acting Speaker, tragic as John Newman's assassination was, it is now up to everyone in the community, including us, to make sure that his life and death were not in vain. He stood up for what he believed in. He spoke out against the evil of organised crime. He strove to protect his people from intimidation and violence. He might have been unconventional in his methods sometimes. Indeed, some of his colleagues thought he took too many risks, but no-one doubted his commitment. He was the first person to be killed for standing up for what he believed in, certainly in the political arena. There is no doubt that the Cabramatta community is a community with lots of troubles. There is massive unemployment, drug trafficking, associated crime and gang warfare; but Cabramatta is not alone. There are many areas of Australia which have similar problems.

I think we all would accept, as the Chief Minister said, that violence is never a solution to these problems. Nor do we believe that you can solve these problems simply by cracking down on crime or stepping up in policing, although, obviously, those sorts of issues are important. We have to really address the underlying causes, and they are the problems of things like unemployment and making sure that our children understand the sorts of values that John Newman held dear. I think everybody accepts that what happened last Monday night is totally abhorrent to the Australian way of life. I am confident that everybody in this house believes that. We can only hope that it never happens again, but it will not happen again only if there is continued courage from those who hold office in this country. Mr Acting Speaker, the greatest honour we could show to John Newman would be our continuing commitment to a free and just community without violence.

MS SZUTY: In speaking to this condolence motion, I will also be speaking on behalf of my colleague, Mr Moore. Mr Acting Speaker, it is with sadness that I rise to speak briefly to this motion of condolence. I am speaking not because I knew John Newman but because of my astonishment and outrage at what happened to him. The cowardly shooting of John Newman by unknown assailants on the evening of 5 September was a sad event in Australian history, an event which I am sure all Australians deplore. Assassination has not been a part of the Australian political landscape, and, hopefully, it never will be. While some may see this view as being innocent or even naive, I strongly believe that all Australians value the openness of our democratic process and the fact that violence is not a part of mainstream political life.

We note that John Newman made a significant contribution to public life in New South Wales, particularly in the Fairfield area. He was elected to the Fairfield City Council in 1977 and went on to serve as deputy mayor in 1985 and 1986. His passion for karate was recognised with his appointment to the Australian Sports Commission in 1985. In the 1986 by-election he was elected to represent the seat of Cabramatta in the New South Wales Legislative Assembly, and he served as a member of parliament from that time. The district of Cabramatta very much reflects Australia's multicultural society. Cabramatta is home to more than 101 ethnic groups speaking 65 languages, and more than half of its 71,000 people were born overseas. In the broader Fairfield City Council area, the 1991 census showed that 41.5 per cent of the population was born in Asia, with 21.4 per cent having been born in Vietnam.

John Newman made the point that many crimes in Cabramatta were not being reported to the police, as members of ethnic communities naturally feel comfortable within their own communities and seek to resolve problems within these communities. Many members of ethnic groupings have little or no English, and many members of ethnic communities harbour an abiding distrust of authority as a result of experiences in their countries of origin. He saw home invasions or robberies in the home as a particular problem, as they occurred roughly three times more frequently in Cabramatta than in the rest of Sydney. In a long-running campaign, John Newman fought tirelessly and fearlessly to make Cabramatta a safer place for his constituents. His ongoing calls for the police force in the area to reflect more appropriately the ethnic diversity of his electorate seemed, unfortunately, to fall on deaf ears. It can be argued that the methods he chose in his campaign may sometimes have been divisive, but his commitment to achieving a successful outcome was always apparent.

Mr Acting Speaker, I believe that it is important for the Assembly to note the tenor of the comments made by Marion Le in the *Canberra Times* of 7 September and again last Saturday. As she pointed out, it would be all too easy to blame John Newman's death on Asians as a whole and use it as an excuse to start some sort of racially based vendetta. This would be an entirely inappropriate reaction, and one which would fly in the face of the principles for which John Newman stood.

Mr Acting Speaker, John Newman's dedication to the people of Cabramatta was unquestioned. He stood for equal access to the law for all his constituents and he sought to bring about circumstances in which that would be the case. While it is perhaps ironic that his assassination should be the first murder recorded in Cabramatta since 1992, I am sure that we all applaud his unstinting work for his constituents and deplore the tragic circumstances of his death. I support the motion and I extend my condolences and those of my colleague, Mr Moore, to his family and friends.

MR HUMPHRIES: Mr Acting Speaker, I want briefly to add my support for this motion as well. In a sense, the person that John Newman was is not important in this debate. The importance is the symbolic nature of his death. It represents, I think, the encroachment on a principle of non-violent political activity in this country which, at least to my knowledge, has not been encroached upon previously. There have been in the past in Australia cases of individuals who have been the subject of political violence, of course. Members will recall, for example, an assassination attempt on Arthur Calwell in the 1960s, and an attempt on the life of a son of Queen Victoria in the last century. So, political violence, unfortunately, is not a new thing in this country. What is new, to a large extent, is an attack on and, in fact, the murder of a serving Australian politician. That, as far as I am aware, is an entirely new phenomenon, and it is a matter, I think, of great concern to everybody who values the way in which Australian politicians operate within the Australian society.

The fact of life is, Mr Acting Speaker, that Australian politicians at all levels are extraordinarily vulnerable people. We do not, as in other countries, ride around in bulletproof limousines. We do not, with only a couple of exceptions, travel with bodyguards. We live lives which are associated with and are very much part of the fabric of our respective communities. The result of that is that we are necessarily vulnerable to these sorts of attacks. It is, I think, despite the sadness of this occasion, a matter of some consolation to us all that, in 200 years or so of white settlement in Australia, at least, this is the first such occasion on which this kind of political violence in this form has taken place.

As Mrs Carnell has indicated, we should value the principle that political dialogue in this country can take place in a relatively non-violent way, and that acts of this kind, particularly against elected representatives, are extremely rare. I hope, as we all assess the reaction of the Australian community to this particular murder, that it will remain an event of great rareness in our community.

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

PETITION

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

By Mr Cornwell, from 55 residents, requesting that the Assembly:

(1) take appropriate action to ensure the variation of the lease application and the development application for block 2, section 36, Griffith are rejected;

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

(3) introduce a moratorium to stop all multidwelling proposals until the Committee on Planning, Development and Infrastructure has completed its examination; and

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

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

Multistorey Townhouse Development, Griffith

The petition read as follows:

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

The Petition of certain residents of the ACT draws to the attention of the Assembly:

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

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

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

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

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

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

Your petitioners therefore request the Assembly to:

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

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

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

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

Petition received.

PAPERS

MR BERRY (Manager of Government Business): I seek leave to present two petitions which do not conform with the standing orders, as both do not address the Assembly, nor does either contain a request.

Leave granted.

MR BERRY: I present two out-of-order petitions, similar in wording, from 302 residents and 1,265 residents respectively, asking that the Assembly repeal sections 42, 43 and 44 of the Crimes Act 1900 - in other words, that this Assembly make a statement about the empowerment of women over their fertility.

QUESTIONS WITHOUT NOTICE

Unemployment

MRS CARNELL: My question without notice is to the Chief Minister. I refer to more bad news for the ACT, as reported in the Department of Social Security statistics released on 8 September for up to the end of August this year. The statistics show that the number of long-term jobless in Canberra has increased by 15.5 per cent over the last 12 months, compared with an average drop of 4 per cent across Australia. Will the Chief Minister explain why the statistics in the ACT are so different from those over the rest of Australia?

MS FOLLETT: Mr Acting Speaker, I think the issue of unemployment is one that concerns all members of this Assembly. It has been pleasing to see throughout the recession that the unemployed figures in the ACT have remained the lowest in the country, by and large, and that has been reinforced in the latest monthly statistics that we have available. In fact, in the latest figures we saw an increase in full-time employment, which I thought was a very good sign indeed, and a decrease in the number of teenagers who are unemployed. I accept that it was a relatively small decrease, but it was a decrease nevertheless.

What we are seeing, I believe, Mr Acting Speaker, in the increase in long-term unemployment is the fact that, as people who are readily employed take up the jobs that are now becoming available, those people who are disadvantaged in the labour force are relatively more disadvantaged. In other words, they are remaining unemployed. This is an issue that we have addressed through a range of programs that I am sure Mrs Carnell would be familiar with; but I would refer, for instance, to programs like the Jobskills program and the Joblink program which are aimed at taking just these people who have been unemployed for some time, giving them appropriate on-the-job and off-the-job training, and ensuring that they are work ready and suitably qualified to take up jobs as our economy recovers. It is not something that is going to happen overnight because, as I said, there were people who were unemployed who were waiting to take up employment. The jobs have been available; but there are still some people who are still unemployed, and many amongst them are disadvantaged.

We also have particular programs in place to try to assist, for instance, women who are wanting to re-enter the paid work force after an absence of some time. For many of those women, if you were to look at the period for which they had been unemployed - that is, out of the paid work force - it would extend to 15 or 20 years, in some cases, while they raised their families. We have a women's work force development scheme which is aimed at assisting those women to get up to date on their skills and their experience in today's work force so that they are more competitive in the job market. We have particular employment programs available for people from Aboriginal and Torres Strait Islander backgrounds because we know that they are also disadvantaged in the labour market.

Mr Acting Speaker, I have heard the Liberals opposite being very critical of the Government's activities in order to make people work ready and to give them a chance to become competitive in the labour market. I repeat what I have said many times - that people demonstrate over and over again that they need that kind of assistance, and that when that kind of assistance is available to them it does significantly improve their chances of employment. Whilst I acknowledge Mrs Carnell's concern about the long-term unemployed in the Territory, I will say that overall our unemployment rate is the best in this country, and that this Government has put in place a wide variety of programs, which the Liberals do not ever want to acknowledge, which are aimed at assisting those people who are particularly disadvantaged and who are therefore more likely to be unemployed over the longer term.

MRS CARNELL: I have a supplementary question. In your own budget papers the only obvious initiative for the long-term unemployed, which was the basis of my question - a long-term unemployment queue that, over 12 months, now exceeds 3,500 - was, "the expansion of ACT Jobskills program to provide 55 new places". I repeat: 55 new places, Ms Follett, for the over 3,500 people who have been unemployed for more than 12 months now. Does the Chief Minister believe that that is adequate to address what is a significant problem?

MS FOLLETT: Mrs Carnell can never be relied upon with figures, Mr Acting Speaker. It is a fact that we have continued with the existing Jobskills program - you have overlooked that - and the 55 places that you refer to were an increase over the existing places. Overall there will be some hundreds of places available. The Jobskills program is only one of those that are available.

Mrs Carnell: The only budget initiative.

MS FOLLETT: As I said in my previous answer, programs like the women's work force development program are specifically targeted at women who have been out of the work force for some years.

Mrs Carnell: They are not even in the statistics.

MS FOLLETT: If Mrs Carnell will not listen to what I am saying, Mr Acting Speaker, you cannot expect her ever to learn anything. It is also a fact that the Joblink program - I would ask you to listen - which was pioneered by this Government in partnership with the Chamber of Commerce and Industry, is directly aimed at assisting younger people who have been unemployed over the longer term. That program actually tracks down, through the CES, young people who have been unemployed, matches them to particular businesses, particular jobs, and provides a mentor service to ensure that they do settle into those jobs and that both the employer and the new employee are finding that working relationship rewarding. It is quite misleading to use just one figure, as Mrs Carnell has done. She is totally unreliable in all matters to do with figures because she has ignored the continuing efforts that this Government has made.

Tourism and Accommodation Industry

MRS GRASSBY: My question is also to the Chief Minister. Can the Chief Minister advise the Assembly of what the real state of the tourism and accommodation industry is in the ACT, in light of the selective quoting of ABS statistics by the Leader of the Opposition, Mrs Carnell, earlier this month?

MS FOLLETT: Yes, I am afraid, Mr Acting Speaker, that Mrs Carnell got her figures wrong yet again in her pronouncements on the tourism industry. She did indeed, as Mrs Grassby has said, quote very selectively - in fact, one line out of an entire document. She quoted that way in order to give a very misleading impression of our ACT tourism industry and to talk down the local industry. There is no doubt about it; that is what she was intending to do.

In fact, Mr Acting Speaker, the latest Bureau of Statistics figures on tourism in the ACT indicate that over the past year the Territory has performed very strongly indeed in all major indicators in the tourism area. They have all shown strong growth. I will give just a couple of examples. The room occupancy rate for hotels, motels and guesthouses rose from 58 per cent to 62 per cent - a very good figure. Guest nights increased by 4.9 per cent. The room nights occupied increased by 6.6 per cent. The average length of stay rose from 1.9 to 2.1 days. That is a very good figure because it has been an aim of our tourism industry to try to increase people's length of stay in the Territory. The bottom line in all of this is that the takings from accommodation showed a very strong increase of 8.4 per cent. They went up from $15.9m to $17.2m.

All of those facts are in stark contrast to the very bleak picture that Mrs Carnell tried to convey. Mrs Carnell, as I said, used the figures very selectively. In fact, she had to admit that herself on Capital Television. She had to say that she did not know where her figures had come from, and she had to admit that those figures were misleading. I wish that she would admit that more often, because it is very often true. As an interesting side issue here, Mr Acting Speaker, Mrs Carnell also put forward the view that she felt that the tourism budget for the Territory should be boosted by some $5m and that that money should be taken from the health budget and by contract from our ACTION services. Mr Acting Speaker, the hypocrisy of this approach is virtually breathtaking. If anybody, even the most casual observer in this Territory, had listened to Mrs Carnell's pronouncements on health matters recently, they would be absolutely amazed and horrified that she is now intending to take money out of the health budget and spend it on tourism promotion, an industry which is doing very nicely, thank you - doing extremely well - without that kind of assistance.

Mrs Carnell, I think, would do very well to take a leaf out of what is happening in the tourism industry, look at the strategic partnerships that are being formed, and look at the way that the promotion and marketing dollar is being maximised. With limited resources, Mr Acting Speaker, it is the responsible way to go. Mrs Carnell says, "We will spend more; we will spend more; we do not care where it comes from. We do not care if it comes out of the health budget. We do not care if we have to put up taxes". "No, no, no", she says, "we would never put up taxes; we just want to spend more money". Presumably, it is just plucked off the money tree.

The attempt by Mrs Carnell to mislead the community and the media about our tourism figures is quite reprehensible. I am pleased to see that she did have to admit to her mistake. It was either a case of being caught out in putting forward a view which was far from the truth, or else it was an error on her part. I would say to you that we have seen a great many errors coming from the other side. Either way, I would encourage Mrs Carnell to check the facts and to read the whole page, not just one line. There is only one page. The figures there are very easy to understand, and they point to a very vigorous industry - certainly not the ailing industry that Mrs Carnell would like people to believe exists.

Government Service - Workers Compensation

MR DE DOMENICO: My question without notice is also to the Chief Minister. Chief Minister, during the Estimates Committee hearings you stated that Comcare had suggested that part of the reason for higher workers compensation premiums was the higher incidence of stress claims by ACT public servants. Can you advise the Assembly of what information you have at hand that would explain why ACT public servants are more stressed out than their Federal or interstate counterparts? If you have no such information, could it be because Comcare cannot justify their reason for increasing the ACT's workers compensation premiums, and they should be dumped as a workers compensation insurer?

MS FOLLETT: Mr Acting Speaker, Mr De Domenico has raised a couple of issues. The first is that I did make available to the Estimates Committee the Comcare report that I had available to me, so I presume that all members have had the opportunity to examine it. It does show a reasonably high incidence of stress related claims for the ACT public service. I make no judgment about how those claims came about or whether they are justifiable or not; but the claims are there and they are reflected in the cost of the Comcare premium. I am also aware, Mr Acting Speaker, that the Standing Committee on the Public Sector, which is chaired by Mr Kaine, has on its agenda the further study of Comcare issues, and I am happy to make all assistance available to that committee in their scrutiny.

Mr De Domenico made a final point about whether or not we should dump Comcare. As I said to the Estimates Committee, the cost of premiums, wherever they are paid to, whether it is Comcare or some other insurer, is directly related to our claims history, and, as I said quite openly to the Estimates Committee, our claims history is not terrific. We have had a high incidence of work related injury and illness, and we have had also a very long period of time before people have returned to the workplace. I have said all this, on the record, to the Estimates Committee. I believe that that issue needs to be tackled quite aggressively. I have asked the new Department of Public Administration to take on a service-wide approach to workers compensation issues, and they have agreed to do that. Until we reduce both our incidence of illness and injury and the time taken before people come back to work, no matter whom we insure with we will be paying premiums higher than we probably should. So, no; I have not examined the issue of dumping Comcare, because I want to get to the real issue, which is that workers in the ACT Government Service are being injured more and are taking longer to recover than I believe they should. That is the issue that is being addressed as a priority.

MR DE DOMENICO: I have a supplementary question, Mr Acting Speaker. Chief Minister, what are you actually doing, or what have you done, in relation to the fact that it seems that ACT public servants are more stressed out than their Federal and interstate colleagues? From what areas are we getting more claims? Have we done any studies? Do we hold any statistics on that?

MS FOLLETT: I say again, Mr Acting Speaker, that, as to the statistics, the information I have is from the Comcare report which I have made available to the members of the Estimates Committee.

Mr De Domenico: Does the ACT administration have any statistics?

MS FOLLETT: That is all I can tell you about where the statistics came from; they came from there. In relation to exactly what is being done to address the problem, I am happy to get out a longer and more detailed report and to present it to members as soon as I can.

Overdue Accounts - Interest Rates

MR STEVENSON: My question is to Mr Lamont. It concerns interest rates on overdue accounts. I have been informed that the interest rate on overdue ACTEW accounts, to people owing money to ACTEW, is 17 per cent. Looking at the fact that the Bankcard rate, I believe, is currently 14 per cent and is known to be on the very high end of interest rates, is that fair, in the Minister's mind? The second part of the question is this: What interest rates are paid by the Government when they have overdue accounts to businesses within the ACT?

MR LAMONT: I thank Mr Stevenson for his question. In order to provide a comprehensive response to both of those issues, as I will, I undertake to take that question on notice, Mr Stevenson, and to provide you with the answer before we rise this afternoon.

Health Services

MR KAINE: Mr Acting Speaker, I have a question for the Chief Minister. Chief Minister, with the next election now imminent, you have found it desirable to carry out inquiries into rates and into planning. In fact, there are several inquiries going on into planning. When do you intend to announce the start date of an inquiry into the other obvious case of Follett Labor mismanagement, the delivery of health services?

MS FOLLETT: This is a silly question, Mr Acting Speaker. First of all, I will take on board the issue that Mr Kaine has raised. Indeed, Mr Humphries put out a press release about the number of inquiries that are currently being undertaken. I totally reject this criticism. I believe that it is incumbent upon any government, first of all, to consult with people who are affected by decisions, and, secondly, to review what you are doing from time to time to make sure that it is an appropriate response to the community's need. The inquiries that are being undertaken are all necessary and are being undertaken in, I believe, the right sort of timeframe.

Mr Kaine, I am sure, is aware that the Government did undertake a review of health funding, in particular, quite recently. As a result of that, we now have the Andersen report, which is being actively addressed not just by the Department of Health but with the assistance of other relevant agencies as well. That report makes a number of recommendations aimed at delivering not just a better health system and a more responsive one but a more financially accountable one, a health system which can remain within its budget.

On the larger question, Mr Kaine seems to be inquiring as to an inquiry into the health system. I do not believe that that is in any way necessary. I believe that we have adequate expertise currently working to improve our health system. I know, for instance, that everybody within that system is working very hard to make sure that it is a better system. As a Government, as you would know, we have spent a large amount of money upgrading our health facilities to ensure that they meet the needs of our community now and into the future. As for the kind of inquiry that Mr Kaine seems to be hinting at, I would be very interested to see whether the Liberals want to promote one. For this Government's part, we are certainly not.

MR KAINE: I have a supplementary question, Mr Acting Speaker. Chief Minister, it is no more than six weeks ago that you did not think there was a necessity for an inquiry into rates or planning either, until they got hot, and then you thought you had better have one. I think Mr Connolly has anticipated you. I understand that he already has an inquiry going. Do you not know about it? When the heat does come on hot enough for you to convene yet another inquiry into the health delivery services, will it be a cosy in-house inquiry like you have for rates, or will it be a botched independent inquiry like you have for urban infill?

MS FOLLETT: Mr Acting Speaker, that question is entirely theoretical and therefore does not really deserve an answer; but I would like to comment that it is untrue to say that I did not believe that it was necessary to have inquiries into the other matters that Mr Kaine has mentioned. As I have said, I believe that it is appropriate to review what the Government is doing, virtually continuously, and that is what is occurring now.

Mrs Carnell: You told the MBA that you did not think a moratorium was proper or appropriate.

MS FOLLETT: Mr Acting Speaker, by way of interjection, Mrs Carnell mentions a moratorium on planning. That was the Liberals' idea. You, Mr Acting Speaker, put forward that idea.

Mr Humphries: No, it was Michael Moore's idea. He is not a Liberal.

MS FOLLETT: Mr Moore, supported by the Liberals. While we are on the subject, Mr Acting Speaker, there is one issue which I would like to address, and Mr Kaine might like to ask his own colleague Mr De Domenico much the same questions as he has asked of me. On today's notice paper Mr De Domenico is down to move:

That the ACT Government conduct a public inquiry into all aspects of current and future urban transport needs in the ACT.

Why do you not ask Mr De Domenico what sort of an inquiry he is planning to have - whether it would be a cosy little in-house inquiry like the Priorities Review Board inquiry which was conducted under the Alliance Government, or whether it would be a full public inquiry where all views are represented, not just the Liberals' privatising ideology?

Public Consultation

MR BERRY: My question is to the Deputy Chief Minister. Can the Minister inform the Assembly of the results of public consultation on ACT services under his responsibility and demonstrate our further commitment to consultation with the community?

MR LAMONT: I thank the member for his question. It is appropriate, considering the chatter from across the chamber, that this question has been asked today. The simple fact is that this Government, through its budgetary process, has embarked upon a high degree of public consultation in arriving at the outcomes announced in that budget process.

Mr Kaine: That myth has been shattered many times.

MR LAMONT: I hear the things that chatter across the road here nerding on at the moment about this and that. They do not want to hear. They simply do not want to hear what the reality is as far as this Government's commitment to public consultation is concerned.

Mr Kaine: I raise a point of order, Mr Acting Speaker. What we would like to hear is some facts, instead of this sham consultation that the members of the Government constantly carp about.

MR ACTING SPEAKER: I am sure that Mr Lamont is coming to the facts.

MR LAMONT: I thank you, Mr Acting Speaker. I also would thank you for drawing attention to the words "this sham public consultation", the words uttered by Mr Kaine. I could understand why he is a bit confused at the moment. He is probably undecided as to whom to vote for for deputy leader of the Opposition in Gary's challenge - whether he is going to back Gary or back Dipper. Have you decided that yet? Have you really decided? Are you going to consult publicly about it?

MR ACTING SPEAKER: Order! Relevance, Mr Minister, please.

MR LAMONT: In relation to the public consultation and the nonsense which has just been uttered by Mr Kaine, I was quite fortunate today to attend the Excellence in Public Management awards run by the Institute of Public Administration in Australia. At those awards, recognition of this Government's contribution in relation to public consultation was clearly identified by that organisation. I will read it out to you, if I may, Mr Acting Speaker.

MR ACTING SPEAKER: You certainly cannot table it.

MR LAMONT: Could I also suggest that it probably would have no effect if I flicked it across the room. In the Excellence in Public Management awards, the ACT Government award of 1994 went to the ACT Electricity and Water Authority for its future water supply strategy for the ACT. This is a significant award in relation to the degree of public consultation that this Government and its agencies are committed to. Mr Acting Speaker, as you have indicated, it is not appropriate to table the award, but I think it is appropriate to table and to provide to each member of the Assembly the run-down of why ACTEW received this award.

The ACT Government, in acknowledging the very sound basis of this public consultation model, has included the same strategies in other public consultations which we have seen the benefits of. We have seen the benefits of an expanded and well enhanced ACTION network, unlike what those across the road here want to happen. We have Mrs Carnell with her hands across her face. If I was as embarrassed as she was, I would have my hands across my face as well. The simple fact is that, in the one-page budget strategy which she tabled in this house earlier this year, her only commitment to public consultation and deliverance of services was to slash $34m out of ACTION. If I were you, Mr De Domenico, or you, Mr Kaine, that would absolutely outrage me, because what she will deliver through that budget process is no buses in your electorate. You go to the people of Tuggeranong and you tell them that. You are not game to. The one-page budget document has disappeared without trace. Mr Acting Speaker, the commitment that this Government has to delivering sound financial policy, sound fiscal outcomes in line with the expectations of our community, has been further acknowledged this day by an organisation with credibility, unlike the Opposition - the Institute of Public Administration.

Fuel Franchise Fee Revenue

MR HUMPHRIES: My question is to the Treasurer. Can the Treasurer explain to the Assembly why revenue from petrol franchise fees was over $500,000 below the expected figure during the last financial year? Can she assure the Assembly that this is not as a result of cross-border sales of diesel fuel under the New South Wales diesel off-road exemption scheme? Can the Treasurer assure the Assembly that neither she nor her department is aware of any such cross-border sales?

MS FOLLETT: Mr Acting Speaker, I believe that I have fully answered this question previously.

Mr Humphries: I do not think you have.

MS FOLLETT: I believe that I have. From memory, Mr Acting Speaker, the reason why we are down on that particular revenue item - it is less than $500,000 - as I have explained before, is the timing question and also the compliance question. There was, I understand, a very large payment made just after the ledgers closed. I understand that the Revenue Office is satisfied that the revenue is in line with expectations, and, in particular, that the diesel fuel revenue is also in line with expectations.

MR HUMPHRIES: I ask a supplementary question, Mr Acting Speaker. I did ask two other questions, Chief Minister, and I will repeat them in case you forgot. Can you assure the Assembly that this is not as a result of any cross-border sales of diesel fuel? Can you assure the Assembly that neither you nor your department is aware of any such cross-border sales?

MS FOLLETT: Mr Acting Speaker, I rely on the Revenue Office to administer our laws in relation to revenue matters. As I have said to you, the advice that I have is that those revenues are in line with their expectations. Mr Humphries has asked me a specific question about cross-border sales. This was the matter on which, during the last Estimates Committee hearings, Mr Humphries quite disgracefully tried to encourage people to flout the law. He was actively encouraging people to flout the tax laws of this Territory - to flout the laws which were specifically brought into being by this Assembly and, in effect, to indulge in tax evasion. That has never been an admirable quality, and I do not admire it in Mr Humphries. I am amazed that he, again, is raising that issue.

I said at the time that I would have a look at the operation of that law, and if it needed to be amended it would be amended. The review of that diesel fuel revenue matter has been completed and I will be acting upon it shortly. In the meantime I do not believe that it is Mr Humphries's place to continue, as he appears to be doing, to try to encourage people to avoid paying a Territory tax - a tax which was imposed by a vote of this Assembly. I can say, Mr Acting Speaker, that the Revenue Office, which is responsible for compliance in all of our tax matters, has brought no cases of cross-border sales to my attention.

Land Acquisitions

MS SZUTY: My question without notice is to the Minister for the Environment, Land and Planning, Mr Wood. When I was briefed by officers of Mr Wood's department on the Lands Acquisition Bill which was passed by the Assembly on 24 August last, I specifically asked whether there were any instances in which the Government would immediately seek to use its powers to acquire land under this legislation. I was advised that there were none. I refer the Minister to the article on page 2 of today's *Canberra Times* regarding the difficulties that have been encountered in reaching an equitable agreement between the leaseholder of the Fassifern Equestrian Centre and the Government over the resumption of all or part of the centre's lease so that development in Dunlop is not delayed. In particular I refer the Minister to his quoted comment that if the matter is not clarified the Government will be able to resume the lease under the new Lands Acquisition Act. My question to the Minister is this: Were the officers of his department aware of this case at the time I was briefed? How many similar cases actually exist, and what action does the Minister intend to take to ensure that the Lands Acquisition Act is applied appropriately, particularly in relation to cases in which negotiation for acquisition had commenced prior to the Act's gazettal?

MR WOOD: Mr Acting Speaker, I thank Ms Szuty for her question. It is my understanding, by way of introduction, that the lease for Fassifern, all this time, has had no withdrawal clause; hence the need to go into these protracted negotiations to finish up with a fair deal - fair to the lessee and fair to the people of the ACT in that in acquiring a property we are not giving away more money than we ought to. Ms Szuty had a briefing from officers of my department. I am not even sure which officers they were, or what section they came from. It would appear that they were unaware of this case and did not raise it with her. She has asked me to get details as to whether they knew about it and what similar cases exist, and I will inform her. I would think that at that time they may have been acting on the assumption that all rural leases had withdrawal clauses - although this was well known at that time because this has been a quite protracted dispute - and it may be that on that ground they gave the answer to Ms Szuty that they did. I will undertake to get more detail and see whether there are, to our knowledge, any other similar leases that might be affected in the future.

Tree Removal - Belconnen

MR STEFANIAK: My question is directed to the Minister for Urban Services, Mr Lamont. Is the Minister aware that last week a number of apparently healthy trees and large shrubs were cut down on Southern Cross Drive approximately 400 metres west of the intersection of Southern Cross Drive and Coulter Drive, and that some more trees had been cut down a further 200 metres west along Southern Cross Drive? Can the Minister explain why those trees were cut down, leaving a very open and bare median strip that is somewhat aesthetically unpleasing?

MR LAMONT: The answer to all three questions is no. Mr Stefaniak, the responsibility for this matter rests with my colleague Mr Wood. He may have a different answer.

Mr Stefaniak: I am not too sure that it does, Deputy Chief Minister. I checked that one out and you, apparently, I am told, are responsible for median strips and not nature strips. Mr Wood is responsible for nature strips and you are responsible for median strips. I checked with your department.

MR WOOD: Mr Acting Speaker, I am prepared to concede that there might be a demarcation issue here. I can indicate to Mr Stefaniak that, between Mr Lamont and me, we will get back with a definitive answer to him. I might point out that people in the service of the parks and conservation branch are frequently lopping trees and, from time to time, removing trees. They do so, as I understand it, when trees are diseased or when they are unsafe for some reason. Perhaps, if they are lower shrubs, they present a visual problem at a corner. I have always found that there is a very sound reason for their removal, but I will apprise you of the reason in this case.

Decompression Chamber

MS ELLIS: My question is directed to the Minister for Health. How much of the taxpayers' money will the Government be spending to provide a decompression chamber in the ACT?

MR CONNOLLY: Thank you, Ms Ellis, for the question. The Government has no intention of purchasing a decompression chamber in the ACT. With her customary flair and shoot-from-the-lip style, when there was a media report recently of somebody being flown to Sydney to receive treatment in a decompression chamber, Mrs Carnell said, "We need to have a decompression chamber in Canberra". Shock, horror; shock, horror! Despite the fact that she has alleged - - -

Mrs Carnell: I did not, you know. Wrong again!

MR ACTING SPEAKER: Order! We could do with one in this chamber at the moment. Would you please allow the Minister to finish.

MR CONNOLLY: Mr Acting Speaker, it is all right. I can proceed above the things that clatter from opposite. With her customary shoot-from-the-lip style, there was a media opportunity. Someone shoved a camera in front of her, and, yes, we have to have a decompression chamber.

The fact is that a decompression chamber is very rarely used. Mostly, it is used for divers who have the bends. That is why some years ago the Commonwealth Government provided assistance for hospitals in coastal Australia - one per State and not necessarily in a capital city - to purchase a decompression chamber. In Brisbane, for example, they do not have a decompression chamber. There is one in Townsville, located close to the area where most people do their scuba diving. There is not one here in the ACT. Occasionally it can be a useful treatment for things other than divers suffering the bends. It can be useful treatment for carbon monoxide poisoning or excessive smoke inhalation. That is what happened on this occasion.

The cost of a decompression chamber, Mr Acting Speaker, would run between $1m and $2m.

Ms Follett: Have several.

MR CONNOLLY: Not a problem - have several. Take it away from the tourism budget. That will perhaps take back from the tourism budget the $5m that we took away from the health budget in the first place. Not a problem; we will get one. The cost to run the decompression chamber would be in the order of $400,000 a year because you need a dedicated specialist operative to run it. In most Australian States that is a specialist anaesthetist who has gone on to specialist training. The result of putting a patient in a decompression chamber and not getting it right is not only that the patient can potentially suffer epileptic seizures but also that both the patient and the staff who are in there with the patient could have the bends inflicted on them through the procedures not being done properly. So, you need to have a specialist team highly trained and doing it regularly so that they keep up their expertise.

To get one in the ACT would be simply absurd; but, once again, the standard style of Mrs Carnell is to shoot from the lip and say, "Here is a media opportunity; we will have one". Who can forget the promise of the Tuggeranong hospital a little while ago, "Yes, we will build another hospital"? All of this, Mr Acting Speaker, is in the context of your party's written pledge, tabled in this Assembly, your counterbudget, to slash over $30m from the health budget. During question time earlier today I heard the chatter and the clatter, and the natter and the pratter, from opposite about problems in Health. If you think Health is stressed now, imagine it with over $30m slashed from it, because that is what your leader has promised in this place.

Mr Humphries: Utter rubbish! She has done nothing of the sort. She has not.

MR CONNOLLY: That is what she has promised in this place. She has promised that, Mr Humphries. Be very careful not to mislead this Assembly, Mr Humphries, because in your written, printed counterbudget, your promises over three years are to reduce health expenditure by over $30m - savings in health expenditure, comprising $26m, through casemix - - -

Mr Humphries: That is a distortion.

MR CONNOLLY: That is utterly accurate, Mr Humphries. Again, be very careful not to mislead this Assembly, because Mr Moore is very careful about people misleading the Assembly. You may stray into dangerous waters here.

Mr Kaine: I raise a point of order, Mr Acting Speaker. If Mr Connolly does not come down off the ceiling soon he is going to need his own decompressant.

MR ACTING SPEAKER: And no doubt divers other things.

MR CONNOLLY: Just let me continue. You pledged $26m to be slashed from the health budget for so-called casemix, $5m to be saved from the health budget for so-called contracting out, $1m to be saved from the health budget for administrative costs, and $2m to be saved from the health budget for privatising Jindalee. Over $30m is pledged to be saved from the health budget over three years, and that does not even include the $5m that you are going to take out, according to last Friday's ABC radio interview, and give to tourism promotion.

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

SUBORDINATE LEGISLATION
Papers

MR BERRY (Manager of Government Business): Pursuant to section 6 of the Subordinate Laws Act 1989, I present subordinate legislation in accordance with the schedule of gazettal notices for the ACT appendix and modifications to the Building Code of Australia, declarations, determinations, and an instrument. I also present a notice of commencement of an Act.

The schedule read as follows -

Betting (Totalizator Administration) Act - Determination No. 125 of 1994 (S181, dated 30 August 1994).

Building Act -

ACT Appendix to the Building Code of Australia - No. 130 of 1994 (S185, dated 1 September 1994).

Adoption and Modification of the Building Code of Australia - No. 129 of 1994 (S185, dated 1 September 1994).

Adoption of the Building Code of Australia and preparation and publication of an ACT Appendix to the Building Code of Australia - No. 128 of 1994 (S185, dated 1 September 1994).

Credit Act - Declaration No. 132 of 1994 (S188, dated 8 September 1994).

Electoral (Amendment) Act - Notice of commencement (25 August 1994) of sections 51 to 183 inclusive; sections 192 to 243 inclusive and sections 279 to 335 inclusive (S172, dated 24 August 1994).

Health Complaints Act - Instrument No. 133 of 1994 (S189, dated 9 September 1994).

Motor Traffic Act - Determinations -

No. 126 of 1994 (S183, dated 30 August 1994).
No. 127 of 1994 (S183, dated 30 August 1994).

Public Place Names Act - Determinations -

No. 119 of 1994 (S178, dated 29 August 1994).
No. 120 of 1994 (S178, dated 29 August 1994).
No. 121 of 1994 (S178, dated 29 August 1994).

No. 122 of 1994 (S178, dated 29 August 1994).
No. 123 of 1994 (S178, dated 29 August 1994).
No. 124 of 1994 (S178, dated 29 August 1994).

Taxation (Administration) Act - Stamp Duties (Marketable Securities) Determination No. 131 of 1994 (S186, dated 1 September 1994).

PERSONAL EXPLANATION

MR ACTING SPEAKER: Mrs Carnell, I understand that you have a personal explanation.

MRS CARNELL (Leader of the Opposition): That is right.

Mr Lamont: Pursuant to what?

MRS CARNELL: Standing order 46. Is that all right?

Mr Lamont: It is okay. Ask the Acting Speaker.

MR ACTING SPEAKER: Order!

MRS CARNELL: Thank you very much. Mr Connolly, in question time, misrepresented me, Mr Acting Speaker. He suggested that I said that we needed a decompression chamber for the ACT. That is not true. What I did say in that interview - and now you have to listen, Mr Connolly - is that we needed a 10-year plan for Health, and that there were a number of things we needed before we needed a decompression chamber, and they were things like cardio-thoracic surgery and improved cancer treatment - and the list went on. What I said in that interview was that hardware of this nature would have to be down the track for the ACT, secondarily. It seems that you misled the house. In answer to the same question, he misled this house again, when talking about the $34m.

Ms Follett: Mr Acting Speaker, I raise a point of order. Mrs Carnell has commented that my colleague misled the house. She needs a substantive motion to use those words, and I would ask that they be withdrawn.

MRS CARNELL: He said the same.

Mr Connolly: No, I said, "Mr Humphries, be careful not to mislead the house".

MR ACTING SPEAKER: Order! There is far too much noise in the chamber. Mrs Carnell, you were making a personal explanation. I think that you are clarifying the points that you made, and therefore the suggestion that Mr Connolly misled the house, I think, is probably putting the wrong interpretation upon it. I ask whether you would withdraw that.

MRS CARNELL: I withdraw that.

MR ACTING SPEAKER: Continue with your clarification.

MRS CARNELL: He misrepresented me, Mr Acting Speaker. He also misrepresented me with regard to the $34m savings from Health. As he would be aware, the $34m in savings would be spent on a slow-stream convalescent unit - something that would save this Territory substantially, that would take people out - - -

Ms Follett: I have another point of order, Mr Acting Speaker. I do not believe that this issue can be debated. Mrs Carnell is entitled to say whether she has been misrepresented, but she is not entitled to debate the issue.

MR ACTING SPEAKER: I will listen carefully, Chief Minister.

MRS CARNELL: Thank you. The $34m that Mr Connolly was talking about would be spent on a slow-stream convalescent unit - something that - - -

Mr Berry: Mr Acting Speaker, I take a point of order. This very clearly is a debate about an issue which occurred in question time. I think the standing order makes it very clear that these sorts of debates are not appropriate. The Leader of the Opposition is entitled to special recognition by this chamber, but not on that score. If she wants to move a substantive motion on the issue, why does she not do it?

MR ACTING SPEAKER: Mr Berry, I will not uphold the point of order because I still believe that Mrs Carnell is clarifying what she said. There has been a suggestion that she has been misrepresented in the house. She is entitled to explain where she has been misrepresented.

Mr Berry: Is this pursuant to standing order 47 or - - -

MR ACTING SPEAKER: It is standing order 46.

Mr Berry: I am afraid that it is the wrong standing order.

MRS CARNELL: There is no question before the house.

MR ACTING SPEAKER: Therefore I do not uphold the point of order, but I would ask Mrs Carnell to be as concise as possible in her explanation.

MRS CARNELL: I certainly will be. The $34m was going to be spent on a - - -

Mr Berry: Mr Acting Speaker - - -

Mr De Domenico: You are dissenting from the ruling of the Chair, are you?

Mr Berry: No. I will just read to you standing order 47, which may be helpful, and I draw your attention to it.

Mr Kaine: I raise a point of order, Mr Acting Speaker. He is not entitled to read anything to you. You have ruled out his point of order. Tell him to sit down.

Mr Berry: She may seek to explain something that has been misquoted or misunderstood, pursuant to standing order 47; but Mrs Carnell rose under standing order 46, on my understanding of it.

MR ACTING SPEAKER: Standing order 47 states:

A Member who has spoken to a question may again be heard to explain where some material part of that Member's speech has been misquoted or misunderstood, but shall not introduce any new matter, -

there is no new matter, as far as I am aware, being introduced at this point -

nor interrupt a Member speaking, -

you are all guilty of that -

and no debatable matter may be brought forward ...

As far as I am aware, Mrs Carnell is not debating the issue. She is in fact explaining where she has been misquoted or misunderstood. She is not introducing any new matter, and I would not permit that anyway. I will also try not to permit any other member interrupting her speech. Would you please continue, Mrs Carnell.

MRS CARNELL: Thank you. The $34m, Mr Acting Speaker, would be spent on a slow-stream convalescent unit - something that would dramatically decrease the costs of acute care in the ACT; a cardiac unit for the 300 or so Canberrans and people in the region who go to Sydney every year for bypass surgery; a paediatric unit at Calvary Hospital; and, of course, two new nursing homes in the ACT.

DUAL OCCUPANCIES - BANKS

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning): Mr Acting Speaker, may I give an answer to a question that you, in a different capacity, asked me last sitting?

MR ACTING SPEAKER: I do not see why not, Mr Wood.

MR WOOD: Thank you. You asked me, "Why did the Department of the Environment, Land and Planning go against its development conditions and allow dual occupancies to be developed in Banks?". The answer is this: The development conditions for the blocks in Banks did state that one dwelling unit was permitted on each block. This reflected the extent of development permitted under the lease at the time of issue. But it is open to any lessee to apply to vary the terms of his or her lease, and to apply for approval of the

development of more than one dwelling on a block. The lessees in Banks followed the procedure. Such applications are required to comply with the Territory Plan as well as any other lease and development conditions. Lease conditions have been varied to permit dual occupancy in many Canberra suburbs.

PERSONAL EXPLANATION

MR CONNOLLY (Attorney-General and Minister for Health): Mr Acting Speaker, I claim to have been misrepresented.

MR ACTING SPEAKER: Are you seeking to make a personal explanation under standing order 46 or standing order 47?

MR CONNOLLY: Indeed. Mr Acting Speaker, Mrs Carnell accused me, before she withdrew, of misleading the house in relation to her promises in respect of Health. I wish to read to the chamber Mrs Carnell's promises in respect of Health, to refer to what I said, and table, once again, the document.

Mr Humphries: Not selectively.

MR CONNOLLY: Not selectively at all; comprehensively, Mr Humphries. Mrs Carnell's counterbudget has two columns. That is fairly simple. She can get that right. One column is headed "Reduction"; one column is headed "Increase". In respect of Health there are reductions of $26m, $2m, $5m and $1m - $34m. In respect of increases, there are expenditures of $1m, paediatric unit; $1m, long-stay convalescent unit; and $1m, cardio-thoracic unit - $3m. Reductions of $34m and increases of $3m mean a net reduction of $31m. My statement was that she has promised to slash over $30m from health expenditure in the ACT. QED, and I table the proof of Mrs Carnell's irresponsible and foolish statements.

SNOWY MOUNTAINS HYDRO-ELECTRIC AUTHORITY
Ministerial Statement

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport): Mr Acting Speaker, I ask for leave to make a statement in relation to reform of the Snowy Mountains Hydro-electric Authority and the impact of that on the ACT.

Leave granted.

MR LAMONT: Mr Acting Speaker, the electricity industry in Australia has been going through significant reform. Prices have been held steady or even reduced over a number of years through industry efficiency gains. The recent Darwin Council of Australian Governments (COAG) meeting agreed that further national reforms were necessary to continue this trend.

Canberra is in a unique position to benefit from the structural reform that is now taking place. We are centrally located on the proposed national electricity grid and have nothing to protect but the interests of our consumers. We should be able to buy power from the cheapest source without fetters - whether it is from Victoria, New South Wales or the Snowy - provided the Commonwealth, New South Wales and Victorian governments reform with conviction. However, for the people of the ACT to achieve the benefits that should flow from the national electricity reform, it is important that the introduction of the national electricity grid and its associated market trading reforms not be delayed.

The ACT Government has a particular problem with the timing of the national reform. We get a substantial amount of our power from the Snowy scheme, which is about to be corporatised. If the national reforms were introduced concurrently with or before corporatisation of the Snowy, ACTEW could pursue the purchase of power for the ACT in a truly competitive market from the Snowy, New South Wales or the yet untested Victorian markets. However, corporatisation of the Snowy scheme is proceeding apace, with final agreement on future Snowy arrangements having been almost reached by the Commonwealth, New South Wales and Victoria. Meanwhile, the national reform process is not proceeding uniformly and, until New South Wales changes its operations to split its generating portfolio into competitive parts and further separates its distribution function to open them up to national competition, the ACT is unlikely to receive significant benefit from those changes.

The New South Wales Minister, Mr Pickering, confirmed at the recent meeting of Commonwealth and State minerals and energy Ministers, which I attended, what has been widely assumed by government and the electricity industry for some time: The proposed level of reform of the electricity system in New South Wales will not be achieved by 1 July 1995, the date proposed for corporatisation of the Snowy scheme. Mr Acting Speaker, without the guaranteed benefit of the Snowy arrangements as they currently stand, the price the ACT pays for electricity will increase. Already, on my ready reckoning, some $20m of Pacific Power's $600m dividend to the New South Wales Government comes from ACT consumers. ACTEW will be forced to continue to purchase power at prices which include these monopoly rents rather than gain the benefits from a nationally competitive electricity trading market. The net result is likely to be that we will be faced with a considerable period of time during which we will have to bear the additional costs of electricity because of capital changes to the Snowy scheme without the benefits of national reforms. This could lead to ACTEW having to pay at the top end $38m a year more for its electricity than under the present Snowy arrangements. I might add, however, Mr Acting Speaker, that, given the reforms that are occurring within the grid itself, it is anticipated that that is the worst case scenario and that the likely impact would be significantly less - somewhere in the order of $20m.

For many years the ACT Government has been aware of the possibility that cancellation of the longstanding Snowy arrangements may adversely affect the ACT and has been demanding a more appropriate role in negotiations on the reform of the Snowy scheme, to ensure that the ACT gets a fair deal with its electricity supply. It has raised the issue both formally and informally on many occasions with the Commonwealth Government.

Mr Kaine wrote to the then Prime Minister in 1991 on the issue. In 1992 and again last year Ms Follett, as Chief Minister, wrote to both the Prime Minister and the Minister for Energy at that time, Mr Griffiths, expressing concern at the lack of consultation with the ACT on the Snowy reform. The Chief Minister also approached both the New South Wales and Victorian Premiers. Both gave an assurance to consider ACT concerns on the matter, but we have no basis for knowing whether these undertakings have been honoured in relation to those private discussions amongst the parties who will now have equity in the corporatised Snowy.

Despite many attempts by this Government, the ACT has not been successful in being included in the Snowy reform process in its own right, regardless of the indisputable fact that the Snowy is of much greater importance to the ACT than it is to New South Wales or Victoria, because it is such a major source of our electricity supply. Indeed, guaranteed supply of electricity to the ACT from the Snowy is enshrined in Commonwealth legislation. The Chief Minister has again written to the Prime Minister seeking undertakings about the ACT's position.

The Commonwealth Government, which would obtain a similar equity to New South Wales and Victoria in a corporatised Snowy scheme, should not pocket benefits that have been paid for by the citizens of the ACT for some 40 years. The Commonwealth Government is part of the negotiating process only to protect the interests of the ACT. What we are seeking is equity in the new Snowy scheme like that granted by the Commonwealth to New South Wales and Victoria and compensation for higher electricity prices which we believe will be forced on the ACT because of the slow progress being made in deregulation of the national electricity system.

Mr Acting Speaker, it would come as no surprise that we call upon the Commonwealth to enter into meaningful negotiations which will recognise that the power entitlements, which it is threatening as if they belonged to the Commonwealth, were intended under the Snowy agreement to serve the needs of the nation's capital. Mr Acting Speaker, I think that succinctly sums up the position that has been represented to both State Premiers and the Prime Minister, and that is: Because of the process that has been adopted in the corporatisation of the Snowy, the Commonwealth Government has usurped - and I use that word not lightly - the role of the ACT and the benefit that should derive to the citizens of the ACT in the corporatisation process of the Snowy.

That is a matter which they can deal with on one of two bases, as I have outlined. In the first instance, we believe that we should receive an equity in the corporatised Snowy arrangement so that there is a long-term return to the Territory which offsets what may be increased power charges through that arrangement. In addition, we should ensure that we are not disadvantaged by lack of reform in New South Wales. I will outline Mr Pickering's comments. They were that in New South Wales they will not be able to achieve 1 July 1995 as the date upon which they break the monopoly position of Pacific Power as far as electricity generating and distribution in that State are concerned. The proposal is to split up Pacific Power into each of its generating modules and to allow those modules to compete within the national electricity grid for electricity services to States and particular clients. That simply cannot and will not occur, on the acknowledgment of New South Wales, by 1 July next year.

Bearing that in mind, the States and the Commonwealth now, in my view, have no alternative but for the Commonwealth to acknowledge the right of the citizens of the ACT to equity in the Snowy and, indeed, for fair compensation to the Territory until such time as that electricity reform within the system is implemented. I present a copy of this statement, and I move:

That the Assembly takes note of the paper.

MRS CARNELL (Leader of the Opposition) (3.46): Certainly, there are a number of points that Mr Lamont has brought up that the Opposition totally agrees with. We agree with him that the Federal Labor Government has let down the people of the ACT on this important issue that is potentially going to cost the people of the ACT very dearly. In fact, the cost is possibly as much as $100 per annum for every household in the ACT after 1 July next year. In fact, the cost could be substantially higher than that, as Mr Lamont is aware.

Mr Lamont: It is not very likely.

MRS CARNELL: It could be substantially higher than that. One of the things that Mr Lamont failed to tell the Assembly is that when the corporatisation occurs on 1 July next year - something that the Chief Minister agreed to on a number of occasions; in fact, the Chief Minister agreed to the date not in 1991 but early this year, when it was absolutely obvious that there were going to be problems with the national grid and the speed with which the national grid was going to come to fruition - even when the national grid comes into place there is every chance that the gap between the $38m, $20m or $25m - whichever figure you believe - and the amount that ACTEW can pick up by buying on the grid at the best possible price could easily be as high as $10m, which is $100 per household. That is after the national grid comes in.

Mr Lamont shakes his head at that. Unfortunately, those are the sorts of figures that are actually coming from the industry. On the best possible scenario, we potentially could be looking at $50 a household; but more than likely, as the industry says, even when the national grid comes on line in the ACT we will be $100 per household worse off. Why? Because the Federal Labor Government has let down the people of the ACT.

Mr Lamont: Your Federal counterparts supported that position.

MRS CARNELL: They are not in government, Mr Lamont. It is your mob, and you have not - - -

Mr Lamont: Mr Kaine supported the process.

MRS CARNELL: Nobody has.

Mr Lamont: Yes, he has. In 1991, Mr Kaine, as Chief Minister, supported the process.

MRS CARNELL: The issue is not - - -

Mr De Domenico: On a point of order, Mr Acting Speaker: Mr Lamont was heard without interjection. I invite him to offer Mrs Carnell the same courtesy.

MR ACTING SPEAKER: I uphold the point of order.

MRS CARNELL: The issue is not whether or not we support the corporatisation of the Snowy Mountains scheme; certainly we do, and, yes, we support the national grid. What we believe is that it is the role and the obligation of the Federal Labor Government to compensate the people of the ACT for the loss that we are going to incur as a result of Ms Follett's lack of capacity to negotiate a reasonable deal on behalf of ACT residents.

MR KAINE (3.49): Mr Acting Speaker, Mr Lamont has just delivered a statement to this house which attempts to justify the absolute failure of this Government to establish any position whatsoever for the people of the Territory in terms of electricity supply to this Territory. He blamed everybody. He blamed the Commonwealth; they are at fault, they are the big bad wolves. He blamed Mr Pickering in New South Wales because he cannot guarantee to do something by a certain date. He blamed, by innuendo at least, the Premier of Victoria because somehow or other they did not spring to our defence. Nowhere at all did he mention the failure of the Chief Minister to negotiate a good deal for the Territory.

The reason that we did not get a good deal, of course, is that the Chief Minister has been content to merely sit in her office and write letters. Nowhere and at no time has the Chief Minister actually sat down with the Prime Minister of this country and said, "Listen, Paul, you have got it wrong and you are doing us a mischief". What does the Chief Minister think her obligation is - to sit in her office and write letters and be done like a dinner on an issue like this that is going to cost the people of the Territory millions of dollars?

Mr Lamont: What did you deliver, Trev?

MR KAINE: I will tell you what I did. I am glad that you raised the point, Mr Lamont. I had the honour, as Chief Minister, of attending the Premiers Conference where this matter of establishing an eastern grid was raised. There are two issues here, and you are confusing the two; you do not understand the difference between the two. One is the question of establishing an eastern grid for the reticulation of electrical energy. The other is - - -

Mr Lamont: The reform of the distribution process.

MR KAINE: Just be quiet, Mr Lamont. I listened to you. Now it is my turn.

MR ACTING SPEAKER: Order!

MR KAINE: Would you call him to order, Mr Acting Speaker?

MR ACTING SPEAKER: I have.

MR KAINE: I am getting a bit sick of having to talk over him all the time.

The second issue, and the one which this Government simply has not addressed, was the problem of retaining the rights of the Territory to the supply of electrical energy from the Snowy Mountains hydro-electric scheme, a right set in place, in concrete, when that scheme was first set in place by Sir Robert Menzies. It has existed to this day, and this Government has thrown that prerogative out the window because as of now it does not exist. It is all right for Mr Lamont to go off to his ministerial council meetings and it is all right for the Chief Minister to sit in her office and write letters to people and to talk about the grid. We agree entirely with the notion of the grid because it does allow us to do what Mr Lamont suggested. If we can buy electrical energy anywhere up and down the east coast at a spot price, at a lower price than what we are currently paying, we can go and buy it. It gives us the opportunity to go and buy it somewhere else cheaper. The fact is, however, that if we had retained our prerogative of access to the Snowy Mountains scheme it would be most unlikely that we would ever find a cheaper source.

Mr Lamont: Which you gave away.

MR KAINE: I did not give anything away.

Mr Lamont: You did.

MR KAINE: I did not give anything away; that is where you are misrepresenting, because all I did in December 1991, realising what the Commonwealth was proposing, was to write to the Prime Minister and state the case for the Territory, to get it on the record that we in the ACT had a problem that was going to follow from what the Commonwealth was proposing to do. We had to get it on the record and get some negotiations started. You lot flunked the negotiation test. I put it on the record. I put it on the table. I set out the problem. Mr Lamont and the Chief Minister failed the negotiation test. They picked up the negotiations after I had put them on the table as a matter that needed to be addressed.

What have we four years later? We have nothing. This is a matter of this Labor Government talking to its Labor mates across the lake. Clearly, they have no clout at all. In handling the negotiations badly, in playing their cards wrongly, obviously, they have sold the 300,000 residents of this Territory down the drain forever - not just tomorrow, not just next week, not just next year; forever. The prerogatives that we once had have been swept aside because this Government was so inept that they could not present their case in a convincing fashion; the Commonwealth would not even let them in through the negotiating doors.

The Commonwealth and the States of Victoria and New South Wales conducted the negotiations without us, and we sat here like a bunch of wimps and wrote letters to the Prime Minister. We did not go over there and hammer on the door and say, "Let us in. We have rights and we are entitled to be here". Oh, no, we write a letter to the Prime Minister. That was the total extent of the negotiation, the total extent of the protestations that have been put forward by this Government. Mr Acting Speaker, this Government has failed the test, they have failed this community, and they have failed this community for infinity, and they should hang their heads in shame.

MS FOLLETT (Chief Minister and Treasurer) (3.55): I want to make a brief contribution to this debate, Mr Acting Speaker. The first thing I want to say is that the negotiations are not over; far from it.

Mr Kaine: You have not made much progress in four years, and I do not expect that you are going to make much now.

MR ACTING SPEAKER: The Chief Minister has the call.

MS FOLLETT: Thank you, Mr Acting Speaker, for your protection. I have taken up with the Prime Minister, as I did at the COAG meeting in Darwin recently, the particular position of the ACT in relation to the electricity industry reform. I know that Mr Kaine tried also to take up this issue with the Commonwealth and, like my own earlier efforts, his fell on deaf ears.

The fact of the matter is, and it is not a secret, that the Commonwealth is pretending that it has some rights over the Snowy Mountains scheme, but in fact its rights exist only because it had responsibility for the ACT. It no longer has responsibility for the ACT. The equity which the Commonwealth claims in the Snowy Mountains scheme, by rights, is equity that belongs to this Territory. I have made that point over and over again. I have also sought, over and over again, to get the Territory to the negotiating table in relation to the Snowy scheme. We have had legal opinion that we have every right to be there; but, again, we have not succeeded. I have made no secret of that; it has been common knowledge. The issue that we face now is the uneven pace of reform across this industry. The Snowy Mountains corporatisation is proceeding quickly, but it is the States who are dragging the anchor. There is no doubt in my mind that the overall reform of the electricity industry is in the interests of this Territory.

We have the advantage of being only a consumer and therefore we are able to shop around amongst the providers of electricity for the best deal, but this opportunity is still in the future. At the moment the situation we have is that, with the Snowy Mountains scheme being corporatised, we are facing price increases. But the rest of the electricity grid is simply not progressing nearly as quickly. What I want to know, Mr Acting Speaker, is why the Liberals opposite have not sought to interfere in this matter in the way they did on the VITAB matter. Why have they not been in touch with their colleagues in New South Wales and Victoria and said to them, "Hey, you look like costing the ACT a lot of money."? Why have they not done that? Why have they not said to Mr Fahey in New South Wales, "The $600m that you are getting from the monopoly rents on electricity is at least in part attributable to ACT consumers. Why do you not get on with reforming your own electricity operation, get on with the formation of the national grid and save our Territory that money?". Why have not members opposite sought to interfere with their Liberal colleagues in the States? They do it on every other occasion when it suits them.

The fact of the matter is that New South Wales and other States do not want to give up their monopoly rents. They are not really, at heart, terribly interested in the national grid. They know that they are going to lose money, and so they should. They have had the advantage of those monopolies for many years and are reluctant to give them up. I call upon the Liberals opposite to take that issue up with their Liberal colleagues in the States and tell them that they think this Territory is being unfairly treated.

As for my own part, I have made our position very clear to the Prime Minister. I have put to him the view that I believe the Territory is entitled to compensation. I will be pursuing that matter. When I do I will be pursuing it in the best interests of this Territory, not in order to score the sorts of empty political points that we have heard from the Liberal speakers opposite. They know what the problems are. Mr Kaine himself was as involved in them as I am. He knows that it is not simply a matter of telling people what the Territory wants and having them do it.

Mr Acting Speaker, I can assure members that I will continue to do my utmost to make sure that this Territory is not disadvantaged by the reform of the national electricity industry. It is a reform which I do support and which is, at the end of the day, in the best interests of all consumers. In the Liberal States, that is where the problems are; that is where the reform process is being stymied, and that is certainly a large part of what the disadvantage problem is for this Territory.

MR DE DOMENICO (4.00): Mr Acting Speaker, I rise to involve myself briefly in this debate as well because, like Mr Kaine and Ms Follett, I was also very heavily involved in this debate prior to being elected.

Ms Follett: You were lobbying on the other side, lobbying for the Victorian Government. You hypocrite!

MR DE DOMENICO: No, I will tell you what I was doing. Listen.

Ms Follett: You were. Keeping us out is what you were doing.

MR DE DOMENICO: No, no. I am glad that the Chief Minister interjects. If the Chief Minister recalls, the then Premier of Victoria, Mrs Joan Kirner, also was in the throes of ignoring the bleats of Ms Follett - as long ago as Mrs Kirner, if people can remember her.

There is no doubt that people on both sides of this house expect the best possible deal for the people of the ACT. There is no denying that. We can stand here all day, across the floor of this house, blaming one another and one another's political colleagues or non-political colleagues; but what needs to be said, and what needs to be said very clearly, is that if the Government needs the help of the Opposition - from time to time we know that the Opposition is more effective than the Government - the Opposition is quite delighted to talk to whomever the Chief Minister would like us to talk to, to see whether we can help her get the Prime Minister of this country to hear her pleadings. We would be absolutely delighted to help the Chief Minister, if that is what she wants.

There is no doubt that unless something is done very quickly the people of the ACT are going to have to be looking for at least $50 per household - perhaps more, on the words of Mr Lamont himself. As I said, we can stand here for the rest of the afternoon and the evening in this debate and chuck all sorts of accusations against one another. Let us get the job done. Whatever needs to be done, let us do it. If the Chief Minister wants the help of the Opposition she is quite welcome to approach us and we will talk to whomever she thinks we ought to talk to.

Question resolved in the affirmative.

URBAN INFILL
Discussion of Matter of Public Importance

MR ACTING SPEAKER: I have received a letter from Mr Moore proposing that a matter of public importance be submitted to the Assembly for discussion, namely:

The failure of the ACT Government to deal effectively with the issue of urban infill.

MR MOORE (4.02): Mr Acting Speaker, the Minister is in a pickle. In fact, Canberra is in a pickle. Earlier today, Mr Kaine referred to "the botched inquiry" on urban infill. That is, indeed, what it is.

Mr Kaine: Aha! He was listening.

MR MOORE: In case anybody missed it, the term that Mr Kaine used was "the botched inquiry". He believed that nobody was listening. Indeed, I was listening. That is why I thought I would reiterate the point he made.

So, what did happen with urban infill? Urban infill seemed like such a good idea. Mr Wood came into this Assembly at the time of the last election and said, "We will deliver 50 per cent urban infill". That promise of urban infill seemed to meet with very little resistance. In fact, it had three basic flaws. They are the same basic flaws as we find in the Territory Plan. There is no strategy for it. It does not tell us how much development there will be, where it will be and when it will occur. I have reiterated these three concepts to Mr Wood 50, 60 or 100 times over the last two or three years. The concepts are very simple to understand; yet his department has not delivered on them. It is much more difficult to draw up a plan that recognises those fundamental precepts of planning.

So, when did it go wrong? It started to go wrong long before Mr Wood became the Minister. In fact, I was conscious of it going wrong before self-government. I remember the first time that we dealt with a dual occupancy. It was a dual occupancy in Reid. In my opinion, it did not fit in with or enhance the suburb. It is very important at this stage to emphasise that there are good examples of urban infill in Canberra.

Those good examples of urban infill may provide us with some clues to how we can ensure that we have a comfortable society and that Canberrans know what is going on around them.

I think that there are a couple of basic concepts on which we would agree. We would agree that we do not want all of Canberra to look like Kingston. Kingston has had a role. It has developed in a specific way. Whilst it is open to some criticism, it provides an important style of housing. At the other extreme, we accept that there is a need for some urban infill. Just where the balance lies is the question. Certainly, there are people who argue that urban infill will not provide any of the benefits that have been explained to us or that were part of the reason why the Minister went into the last election for this house singing the praises of a policy of 50 per cent greenfields and 50 per cent urban infill. However, there are people who seek to have dual occupancies to include the wider family structure. I am certainly aware of one of those being prepared at the moment.

We know that the idea started to go very wrong after the Territory Plan was introduced. It has taken quite some time for the Minister - and for the Government, for that matter - actually to recognise that urban infill is an issue and to deal with it effectively. Finally, I called for a moratorium on urban infill. I said, "It really is going wrong. We need to stop now and assess it". I have called for that moratorium at an appropriate time, when we have an oversupply of housing, so that we can try to determine what is going on and find some solutions, and so that we can try to understand how much development we should have, where it should be and when we should have it. The response that I received was, "We cannot really have a full moratorium". I could not get support for that to carry a motion through the Assembly. I was told, "We would rather compromise and take no further applications for approval during the period of the inquiry".

So we are to have an inquiry. I believe that the Minister genuinely set out to have an independent inquiry. I believe that that has been undermined by the bureaucracy and by the inability to ensure independence in his selection of an appropriate person to carry out the inquiry. To go back one step, I think it is important to show what this means to an individual who is involved in an urban infill issue in Canberra at the moment. Let us take an individual living in Yarralumla where there is a proposal for six units next-door, a dual occupancy behind them and half-a-dozen units across the road. That is not an unusual situation in Yarralumla. A person in that position may well say, "This is the lifestyle that I want", and will develop it. However, another individual may say, "This is not the lifestyle that I want. I seek something different. So I am going to be involved in the issue as well. I will put my house up for sale, perhaps with the one next-door so that it can be redeveloped as well. Because of the redevelopment potential, the land is obviously worth more money. I will be able to go and live somewhere where I do not have to worry about this". But where? That is part of the main problem. There is nowhere else to go. There is nowhere in Canberra that is not open to this problem of urban infill. Madam Temporary Deputy Speaker, last week I was in Adelaide, and I spent some time driving around. Some of it was to do with the Conservation, Heritage and Environment Committee. I noticed the way in which urban redevelopment policy has hit parts of that city and I realised why people who have seen that and have lived with it would not want to see it proceed in the same way in Canberra.

How did the Minister come to choose Mr Bob Lansdown to be the inquirer in this inquiry? At the start, I would like to make it very clear that in no way am I critical of the integrity of Mr Lansdown. It is really a question of who is appropriate for this inquiry. Mr Lansdown has been chosen, and I may well be proved to be totally wrong. He may have exactly what it takes to conduct an inquiry. If that is the case, I will be only too delighted to state it. I had proposed to Mr Wood, amongst other people, Professor Max Neutze and Professor Ray Bunker from the South Australian University. Professor Bunker was agreed to by Mr Wood, in an attempt to have an impartial inquiry. Unfortunately, Professor Bunker still had six weeks of teaching to go. He would not have been able to conduct such an inquiry within the set timeframe; he would not have been able to do it until towards the end of this year. That was, clearly, unsatisfactory for the style of inquiry that we are to have. It is appropriate for me to acknowledge that the Minister was prepared to agree to appoint Professor Bunker.

The great concern to me is that the reason I was given for Professor Neutze being inappropriate was that he had already spoken on this issue. The evidence for that was a Royal Australian Planning Institute newsletter of July in which a third person had reported what Professor Neutze had said. The Minister's office provided me with a copy of it and highlighted a couple of comments that were attributed to Professor Neutze. I returned the piece of paper, highlighting on the same page alternative comments made by Professor Neutze which clearly demonstrated that his position was neutral. Leaving that aside, if we take some very measured comments by an academic on some of the concerns about urban infill and say, "That means that the person is not impartial, and that means that he cannot conduct an inquiry like this", that leaves the Minister in a rather awkward position in relation to the comments made by Mr Lansdown last night on WIN television and reported in this morning's *Canberra Times*. Mr Lansdown's comments are in the language of the developers.

More importantly, I think it is reasonable to ask the Minister to answer this question: Before he saw Mr Lansdown at lunchtime today - I understand that he met with Mr Lansdown at lunchtime today, which was quite appropriate - did Mr Lansdown go and discuss the issue with the members of his department, with the bureaucracy? Has Mr Lansdown gone to a range of community groups and discussed the issue with them? Where are his priorities in this matter? As far as I am concerned, the most critical thing for an independent inquiry is to ensure that the inquirer is not relying on the bureaucracy to gain an understanding of what is going on here, because the bureaucracy has got it wrong. They got the Territory Plan wrong on this issue, as I stated when the draft Territory Plan was introduced in the last Assembly. Even when I voted for the Territory Plan as a whole, I drew attention to my concern on this specific issue, and that concern remains.

There are arguments for urban infill. For example, in an article in the *Canberra Times* of 6 August, Larry King, the ACT chief executive of the Housing Industry Association, stated:

In passing the laws that introduced the new Territory Plan the Government specifically encouraged infill.

Why did the Government adopt this policy? It did so in order to:

. Make better use of the infrastructure (roads, water supply, power, sewerage, etc).

. Slow down urban sprawl. The Sustainable Canberra Report demonstrated that at one time Canberra had the unique distinction of being the only city of 32 examined whose inner area was less dense that its outer area.

. Make better use of greenfields sites while making least impact on the natural environment.

. Respond to demand from consumers.

He went on to say:

Urban planning stirs the passions. It affects people where they live.

All these things are true. Just as Mr King and others argue along those lines, it is reasonable to say that very strong and eloquent arguments have been put by Professor Pat Troy from the urban research unit at the Australian National University. Professor Troy does not have a specific axe to grind. Obviously, Larry King of the Housing Industry Association does want to see more and more housing built. That is part of his role. One can see why he would wish to argue that way. The supposed benefits of urban consolidation have been questioned. What we really need is somebody who will take on those questions, consider them and determine whether or not there is any significance in them and what it is about the urban consolidation policies that is causing so much angst in Canberra. There is not one member of this Assembly who could argue that there is not a great deal of angst caused by the policies, about which a leading academic, who is now overseas speaking on this very issue, has raised real doubts and has qualified each of those doubts.

How will the problem be resolved? The problem will be resolved with great difficulty. Already there have been questions raised about how independent the inquiry is - first over its secretary and now over the inquirer. Minister, it may well be possible now to have somebody like Professor Neutze assist Mr Lansdown in his inquiry. I offer that as a genuine suggestion, to give you the opportunity to show that this inquiry will be run as independently as possible. What we all seek is to get a positive outcome for Canberra, in terms of the people of Canberra and in terms of changes that need to be made to the Territory Plan and to planning on this issue. The way the Minister is going about it appeared, for a while, to be appropriate; but it does not appear to be delivering what it ought to deliver. If it remains "botched", it will leave this Minister, his Government and Canberra in a pickle.

MR WOOD (Minister for Education and Training, Minister for the Arts and Heritage and Minister for the Environment, Land and Planning) (4.18): Madam Temporary Deputy Speaker, Mr Moore used the term "a botched inquiry" on a couple of occasions, at the beginning and at the end of his speech; but I was encouraged by his comments in the middle part of his speech when he said that he will not pass judgment - he will wait and see what is the outcome of this inquiry and what report Mr Lansdown brings down - before making comment. So, I put down to simple point scoring the comment about a so-called "botched" inquiry, because Mr Moore has clearly not passed judgment before a report has come down. I appreciate that, because that is the attitude that every person should have. We have a process under way. I am confident about that process, and I await the outcome with interest.

I believe that the process is workable. It is one to which I gave a lot of consideration. Mr Moore had called for a moratorium. That simply was not possible. It was probably illegal. I did not have any more detail than a moratorium which said simply, "Stop everything". The Liberals had called for an inquiry, again without giving much detail. They wanted an inquiry. They were hearing concerns, so they said, "Let us have an inquiry". But then we had to accommodate the issue of what was to happen to current applications. So, it was left to me, on advice, to come up with a process that might enable this to work. That process uses the statutory timeframe established in our legislation. We have to deal with applications within a period of 13 weeks. So, within that period of 13 weeks, we need to have the inquiry set up, running and reporting, and we still need to deal with applications that are current. It is a workable process. It gives the community time to indicate what they like and what they do not like, and it imposes the least possible strain on the building industry. I acknowledge that there will inevitably be pressures on the building industry as they accommodate this review.

The process that Mr Moore suggested was botched was an agreed process. I had heard what was being said in the community. As Minister, I tend to hear more than most people do what is being said. I was interested to do something about it. My colleagues certainly had the same view. I had to consider how this was to be done. I was well aware of what Mr Cornwell and Mr Moore were saying. The view generally expressed was that, if there is to be change - and there are some who question whether there should be any change at all - we have to look at the pace of that change, the quality of what is happening and perhaps the densities. That is what we have attended to.

I repeat that the process was agreed, and I believe that we can now work through it. It is appropriate that I agreed to a process. When the Territory Plan came in a year or so ago, I indicated that we would need further review. I have said often to the other people in this Assembly that that is particularly the case because, at the time of the last election, when the Territory Plan was first out in the community, about three years ago - that is how long we have been debating these issues - the debate was hijacked. There was the irrelevancy of the pink bits. The pink bits were, and properly so, no more than an exercise in saying to the community, "At some time in the future we have to examine these bits and pieces of land to determine a final usage". Actually, the brown bits were much more significant than the pink bits, because the brown bits were taking a piece of land and

immediately giving it a specific usage. I think there is something interesting about colour coding. Because they were coloured pink and they jumped out at you, it grabbed the attention of a few people and the debate was hijacked. We did not have the full measure of debate that we might have had. I said so at the time. I said so to Matthew Abraham, who, above all others, was the leader in hijacking that debate.

The main issues in that Territory Plan are the ones that we are discussing now. They always have been the main issues. I agreed to a process. Because, right from the beginning, the whole plan has been one in which all members of the Assembly have been involved, I believed that it was appropriate for that process to continue. I examined the options for proceeding down that path. I could have taken unilateral action. I could have discussed the matter with my planners and said, "These are the concerns. Do we need to resolve them; if so, how?". That was an attractive option, because it was more immediate. I thought that an appropriate way to go was to refer it to the PDI Committee. However, they have a heavy agenda. They are looking at the legislation at the moment. They did not believe that it was appropriate for them to do it. So, rather than take unilateral action, I set up the inquiry. I think that that process was agreed with other members of the Assembly, because I spoke to them about it. Indeed, the terms of reference of the inquiry are Ms Szuty's. So I have not endeavoured to take control of this inquiry. I have not endeavoured strictly to impose my ideas upon it. It is a genuine and open inquiry. I want the consultation that has been a feature of our planning to continue. That is the reason for having this inquiry and for the way we have done it.

Mr Moore made the point that the Territory Plan has gone through this Assembly with everybody putting up their hands. I noted Mr Moore's comment about the very first day he saw the draft plan and the strategic approach that he believed it should have. It has gone through every stage. There have been lots of disputes at various times and lots of arguments; but, in the end, every hand has gone up. We have not raised today another significant factor, which is the unit titles legislation that went through. As we said when we were in the chamber down the road, it will be an encouragement for dual occupancy. We acknowledged it. We said it, and every hand went up in agreement. So, right through, there has been agreement on what has been happening. I take responsibility as Minister. I am not trying to pass the buck to anybody and everybody; but there has been agreement. On my part, there has been an acknowledgment that there is always going to be a debate in respect of the issues that are now confronting us.

The only criticism has been about the process of setting up the secretariat and finding the inquirer. I said at the outset that I would try to find an agreed person. In the end, I do not think we got a person upon whom everybody totally agreed. I have to say to Mr Moore that I am not comfortable talking about who were the people we examined and considered and why someone was picked and not somebody else. I do want to indicate that we looked at a long list. Every person on that list was a person of the utmost integrity, with outstanding service to this community or to some other community. I believe that any one of them would have done an excellent job. They certainly would have done it to the best of their ability. I do not lack confidence in any person whose name was considered, and I want to emphasise that to Mr Moore.

We established a secretariat. There was an objection to a bureaucrat. There was no objection to his competence or his integrity; but, because he was from the planning area, there was an objection to his carrying out what were purely secretarial roles. In the interests of agreement and consensus, I have undertaken to find some other person, in a much more distant part of the bureaucracy, who can do that work. I will probably be able to provide that person's name later tonight or early tomorrow morning. I believe that Mr Lansdown, who has eminent qualifications, will do it well. I am grateful for Mr Moore's integrity in indicating that he is not going to pass judgment ahead of any report. I expect that all members in this Assembly and in the broader community will do likewise.

This is an issue that is being hotly debated in Canberra. As I am sure members, especially members of the PDI Committee, are aware, it is an issue that is being hotly debated around Australia. Australians everywhere are doing two things. They are acknowledging that our cities cannot spread forever, and they are doing something else: They are actually wanting to buy accommodation that is not necessarily on the fringes of cities. I am sometimes accused of listening to developers. The fact is that builders will build houses to the market. The market says, "We want a certain sort of house", and the builders provide that. It is the case that we have an oversupply at the moment because some builders thought that the very high building rates of a year or so ago would be sustained, whereas we have come down to the average level for Canberra. So this is an Australia-wide issue, and States are having to deal with it.

It may be that, as a result of this inquiry - only Mr Lansdown will be determining what the outcome will be - we will go back and say, "It will be all greenfields development". That has not been the view expressed in this Assembly before. Mr Moore acknowledged today that we do need to consolidate in some areas. I had better not put words into his mouth; but I do not think there is opposition to some of what has happened in the past. It is still open for us to go back to total greenfields development, if that is what Mr Lansdown believes the community wants. He has that difficult task of assessing what the entire community wants. It is a task that we attend to in this Assembly, and it is one that is not always resolved. I might point out that the processes we have in this Territory are very much more open and more capable of community input, objection and appeal than those in other places. In Brisbane, residential land can be subdivided down to 300 square metres. In Sydney, the State Government has introduced policies to override local councils who are reluctant to accept medium density housing. I think that in Melbourne single-storey dual occupancy can be carried out anywhere, without any consultation or right of appeal.

That is not the sort of system that we wanted for Canberra. We wanted a system in which the community can participate. People often say that they are overridden. But I have never known a community that is more intent on saying what it thinks; with a government, an opposition and independents who listen; and with people in the Planning Authority, in this instance, who go out and attend meetings and pay very careful attention to what is happening and then, if there is not agreement, are subject to appeal mechanisms at the end of the day. I think that we have a sound process. I believe now - and time will confirm it - that we have an inquirer who will do an outstanding job. The process will continue. I invite all in the community to say what they want to say. They will be heard. They will be attended to.

MR CORNWELL (4.32): Mr Wood's closing remarks indicated that this matter of public importance was directed at the inquirer. I would like to remind members that the matter is:

The failure of the ACT Government to deal effectively with the issue of urban infill.

I am aware that some people out in the community have taken exception to some comments that Mr Lansdown made on television last night. I did not hear the words. I think I saw the comment in the newspaper this morning. It may not have been the most felicitous way of expressing a view; but I did not read into those words what some people in the community do. In fact, I think Mr Lansdown said that people in Canberra had to be prepared for change and to change. I would remind members of this Assembly and, indeed, the community that this Territory changed irrevocably - perhaps for the worst, in some people's eyes - in 1989, when we got self-government. So change does take place. I would prefer to be charitable and put the comments of Mr Lansdown into that context. I feel that people could be making a bit too much out of his words.

I think it is equally unfortunate that Mr Rod Nichols has been targeted, apparently because of some views that he held in relation to infill. But it does not alter the fact that out there in the community there are people who feel very strongly that this inquiry is going to be a whitewash because the department and the planners have got together with the developers, the developers are determined to make a quick quid out of this town, and they are being aided and abetted by the department and the planners. I think that is the nub of this matter of public importance. Quite justifiably, some criticism has been levelled at the Government for its failure to recognise well before now the problems that were being created in relation to urban infill in this Territory.

In his closing remarks, Mr Wood mentioned what is happening in Sydney, Brisbane and Melbourne, how much tougher the governments in those States are in relation to planning decisions and what little input the community in those cities may have into planning. But the point that has been made to me repeatedly by objectors in the ACT to the current infill proposals is that people here do not live in Sydney, Melbourne or Brisbane. They do not want to live in those cities. That is why they are living in Canberra. They expect more from Canberra - and so do I. I believe that all of us in this chamber should expect more.

Again, I see a justifiable criticism against this Government for its failure to recognise the problems that the infill policies it created were causing, particularly the 50 : 50 policy. I am not suggesting that any of us were not correct when we passed the unit titles legislation. I do not think that we realised its full implications.

Mr Wood: Yes, we did. It was all said in here.

MR CORNWELL: We did think in terms of granny flats.

Mr Wood: No.

MR CORNWELL: If Mr Wood, by interjection, is suggesting that some members of the Assembly were aware of the implications of dual occupancy, I will accept his words. However, I do not accept that the community were aware of the implications of the amendments to the unit titles legislation, which led to dual occupancy. These are the people who are now complaining bitterly. Of course, it is not confined to one local area. I can quote examples of the problems in numerous suburbs. I can also quote abuses of the system that have been carried out. For example, one of the green signs in Captain Cook Crescent was placed up a tree. I also observed one in Red Hill that was against a wall. These are hardly advertising the fact that dual occupancy activity is going to take place. They are hardly in public view, where they can be read by neighbours or passers-by. That is but a minor example of some of the abuses that have taken place. There are, of course, many more, particularly in terms of construction. The thing that has annoyed most of the people who have complained to me is the fact that these things have been done by developers who have said, "I really do not care about these problems because I am not going to live here".

I have heard people from the Master Builders Association complaining about the amount of money that is held up at the moment as a result of this inquiry. They are talking of something like $300m. I accept that that is a problem for developers; but I will argue that the reason for this inquiry is, equally, to avoid financial problems for residents, because they too have put vast sums of money, relatively speaking, into their houses, and they do not particularly want to see that money and those houses devalued because of what is, in their opinion, bad development beside them.

I am not one who believes that this inquiry will be a whitewash. I am not one who believes that this inquiry will not come to any conclusions. I am quite confident that we can improve the present system. The issues are fairly clear cut. Certainly, from the Liberal Party's own public meeting, it came through loudly and clearly that, whilst people do not mind dual occupancies - provided that they are well done and provided that the block size is reasonable - most people detest having two-storey medium development next-door to them, for the simple reason that it destroys their privacy. They suddenly find that they have a house overlooking their backyard or something like that. From those examples, surely it is possible to come up with some simple solutions to these problems. We do not necessarily have to rewrite the Territory Plan.

I believe that this inquiry can achieve the improvements that the community is looking for. If that is the case, I do not believe that we will find the developers complaining too loudly or too bitterly, because they are prepared to adapt. We must remember that what is happening now out there in the community, with the developments that are going on, is within the law. We may not like what is happening; but it is not unlawful. If we wish to change it, I have no doubt that the developers, in turn, will adapt to it. As they have said repeatedly, they want certainty in planning. I put it to you that not only do the developers require certainty in planning, but so do residents.

It is an indictment of this Labor Government that the problem was allowed to run on for so long before it reached this critical point. I suggest to Mr Wood that, if it had not been for Mr Moore, Ms Szuty and the Liberals becoming concerned about it, we may not have had this inquiry initiated by the Government. We would certainly have had an inquiry; but it would have been initiated by the Opposition and the Independents. There is no question of that. I hope, therefore, that we can come to some sensible agreement and that the inquiry will come down with some very sensible improvements to the present Act. I will be watching it very carefully. Certainly, if there is any attempt at a whitewash, I will be making my own amendments to any such report on the floor of this chamber.

MR LAMONT (Minister for Urban Services, Minister for Housing and Community Services, Minister for Industrial Relations and Minister for Sport) (4.43): Madam Temporary Deputy Speaker, I rise to make a number of comments in relation to what has been said in the chamber this afternoon. I do so, taking into account the 2½ years I spent as chair of the Planning, Development and Infrastructure Committee, in the company of - - -

Ms Follett: The best chairman it ever had.

MR LAMONT: Thank you; and it has been similarly well conducted by my colleague Mr Berry, who followed me. A hallmark of the Planning, Development and Infrastructure Committee over those 2½ years has been the cooperative way in which issues have been addressed. The PDI Committee started with the concept of achieving a reconciliation of views. Particularly in dealing with the Territory Plan - which was probably the major work undertaken by the PDI Committee in the 2½ years that I was a member of it - we believed that we needed to be the reconcilers, to take the competing views which are evident within our community and attempt to resolve them in a planning context. That was the basis upon which we undertook our work. I believe that the PDI Committee, and subsequently this Assembly, were right in dealing with the Territory Plan in the way they did and in making the decisions they did. I believe that they got it right. I believe that this Assembly - Mr Moore, Ms Szuty, the Opposition and the Government - collectively got it right.

Let me refer to a number of statements on this topic that have been made by members opposite and Mr Moore and Ms Szuty. In 1992, I moved a motion in the Assembly on the question of urban renewal. On that day, Mr Cornwell said:

I would suggest that in the interim, and at the end of three years, certainly in the terms of this topic today - as it will be with all other matters relating to the ACT ... at the end of these three years of your Government, we are going to have much more than just talk.

That is true. I believe that, in our successful completion of the Territory Plan in 1993, we were able to provide a blueprint for the long-term development of this Territory. Ms Szuty said:

I have spoken before on the topic of urban renewal in the context of strategic planning, and I would like to state that, per se, I do not disagree with the concept.

Mr De Domenico said that he was "delighted to rise and to agree with Mr Lamont" in relation to this matter. This was in earlier days, before Mr De Domenico and I were elevated to the dizzy heights of deputy stewardship of the parties that we represent in this Assembly. Mrs Carnell said that she rose "to strongly support Mr Lamont's motion and the real need for a plan for, shall we call it, urban renewal" in the ACT. A number of other comments were made by Mr Humphries, but probably the most telling one was this:

We are all agreed on the objective, but I doubt that any two of us would agree on the way to reach it.

I think that is the essence of Mr Moore's motion today: We do all agree with the objective. Mr Moore, by putting up his hand and actively supporting the implementation of the Territory Plan - that well-researched and well-documented edifice of the planning process in the ACT - quite simply, did accept the objective. Despite the fact that he may now shake his head, that was the fact at that time. He supported the objective. Of course, there is dispute in relation to the context in which Mr Humphries put it - that there was doubt as to whether any two people would ever agree on the way that it should be implemented. But the objective of urban consolidation and urban renewal was a policy position that was broadly supported within this Assembly by all parties, by the Independents and by Mr Stevenson, as far as I can recall the debates.

The important point is that, in the process of establishing the Territory Plan, the Planning, Development and Infrastructure Committee went to public meetings, called public meetings and established a public and open process for considering the competing needs and interests. By doing so, it received the support of this Assembly in relation to the substantial changes that it made to the then draft Territory Plan. I believe that it was because of the process that we adopted that this Assembly ultimately endorsed the plan in the way that it did. Within that plan, we have a quite considerable and authoritative body of work that has established the qualitative measures to apply to all facets of dealing with technical issues under the Territory Plan, particularly the design and siting issues.

We have developed from the draft Territory Plan more rigid qualitative assessments about what we expect from the urban form. I do not deny, and I do not think that anybody in this place can deny, that there have been some terrible examples of the way in which dual occupancy has occurred on some blocks. Equally, there have been some outstanding examples of dual occupancy. The difficulty that we all have is to ensure that we remove the opportunity for the inappropriate implementation of dual occupancy wherever it may occur and to ensure that the qualitative assessments that are made and have been determined by this house are implemented in both the intent and the letter of the law.

That really is the test for this inquiry and for Mr Lansdown. From comments made, in particular by Mr Moore, and by you, Mr Acting Speaker, and Mr Kaine, that seems to be the way in which people will now determine whether or not there is a successful outcome from the Lansdown inquiry - by establishing it as a test. I am not quite sure what people want to get out of establishing it as a test. I think that there are competing political interests. On the one hand, we have some in this house who will use the test to keep the issue alive for the next six months. There are others who will use the test to determine whether or not we can substantially wind back development that has already been

approved, for example, in the B1 development area. I was also fortunate to chair and be involved with the Planning, Development and Infrastructure Committee through the very public, open and exhaustive process that established the area guidelines and qualitative assessments for B1. I believe that, in relation to what we are doing at B1, the Planning, Development and Infrastructure Committee and this Assembly got it right. I believe that the changes which we made to the draft development guidelines for B1, which were overwhelmingly endorsed by this house, are the proper way for us to go in that area-specific development.

This inquiry will be used as a test. I do not believe that it will be stilted. I do not believe that there are predetermined outcomes. I think that anybody who says that has substantially underestimated the inquirer and his very commendable track record. But it is a test. It is a test as to whether or not this Assembly is prepared to allow a process, which will be an open process, to be concluded and then accept the outcome. The interesting thing is that each of the members of the Opposition and the Independents expect the Government to be bound by the outcome of this inquiry. I call upon the Opposition and the Independents also to be bound by the outcome of this inquiry - and that is the real test.

MR DE DOMENICO (4.54): I rise to make some brief comments. I am a member of the PDI Committee. Mr Kaine and Mr Lamont are former members. I will take up where Mr Lamont finished and I will say to Mr Lamont that not everybody in this place is going to be happy with what Mr Lansdown has to say. In fact, I will go a step further and say that, in issues of planning in this place, no-one will ever see a successful outcome. Nowhere in this country has there ever been 100 per cent agreement with the outcome of any planning inquiry. We can see that from what happened when Mr Lansdown and the secretariat were appointed. Not everybody agreed with the appointment of Mr Lansdown or the appointment of the secretariat. That is what is going to happen.

Mr Acting Speaker, I think that, in your remarks, you hit the nail on the head. Both the developers and the community want one thing, and that is surety. They want to be told, "This is what can happen; this is where it can happen; this is when it can happen; and this is how it can happen". That is possible. But let us realise that, notwithstanding what decision is made, not everybody is going to be happy. I can certainly say that a lot of people will be happier if any decision is made, because what the community is concerned about, perhaps more than anything else, is a lack of decision and a lack of surety.

I agree with Mr Lamont that we have seen some horrendous examples of dual occupancy in this town. I keep hearing people from Griffith, Banks, everywhere, saying, "We believe that we are going to get another Kingston in our suburb". Of course, we all know that that is not going to happen; but the perception out there in the community has now reached the stage where I believe that it has converted itself into a frenzy. As soon as you mention the words "dual occupancy", "urban infill", or whatever, people expect to see the ugly multistorey examples that we find in Kingston. There is also some very good development in the area of Kingston. Let me put that on the record.

I am delighted that Mr Moore has said that he is not prepared to make any comments now, but will wait and see what is the outcome of that inquiry. However, I will bet pounds to peanuts that, notwithstanding what Mr Lansdown or anybody else that Mr Wood might have picked will say, we will get complaints from the same people who did very little in terms of the public consultations that went on when Mr Lamont was chairing the committee which looked into the Territory Plan. After it was all signed, sealed and delivered, we got more complaints than we did throughout the long process of public inquiry. It is very easy for those people, who stand up and complain and whinge and moan, to talk about things in hindsight. If we all had the benefit of hindsight, we would be delighted.

The other thing that members of this Assembly should be prepared to do is to admit it if we have made any mistakes in the past, in terms of what we may or may not have done, in terms of the Territory Plan or other things that we have looked at. I, for one, and members on this side of the house, I know - and perhaps members on the other side of the house - will be prepared to say, "Okay; we got it wrong". That is not a big deal. It makes us human. But it must be shown where we have got it wrong, because I, for one, am not going to accept excuses such as those mentioned before. I am aware of certain developers who are quite happy to go ahead and develop willy-nilly, with thoughts only of what might be good for their pockets, but for whom, when similar developments are proposed in the area in which they themselves live, it is a different story.

Mr Acting Speaker, I recall the remark made to you quite publicly by the Master Builders Association. I think the question was, "Whom do the Liberals think they are representing?". I thought your answer was quite good. I think that all 17 members of this Assembly, or 16 at least - I do not cast aspersions on anybody - would respond by saying, "We happen to represent the community". Mr Wood, especially - the self-styled "Member for Brindabella" - would realise that there are even some people in that electorate who are very scared about the perception of what may happen with this dual occupancy, urban infill situation.

Finally, Mr Acting Speaker, let me say that there will be some times when this Minister and this Assembly will have to make up their minds and make a decision. As hard as that might be from time to time, people have to realise that, whenever decisions are made, not everybody is going to be happy. But I still say that it is better to make a decision than to procrastinate. That leads me to the MPI before us. We are six months away from an election and - let us be honest with ourselves - political parties do conduct surveys. All of us, on both sides of the house, know that this subject of urban infill will appear in every political survey that asks, "What is the community concerned about?". Is it not ironic, and very timely, that only when we are so close to an election does the Government realise that perhaps it needs to do something about it? It has been told time and again that it needs to do something about it. I am suggesting that, when tough decisions need to be made, we should let them be made, and it might be surprising to find who supports them, if the decisions are the right decisions.

MR ACTING SPEAKER: The discussion is concluded.

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

MRS GRASSBY: I present report No. 13 of 1994 of the Standing Committee on Scrutiny of Bills and Subordinate Legislation. I seek leave to make a brief statement.

Leave granted.

MRS GRASSBY: Report No. 13 of 1994, which I have just presented, was circulated when the Assembly was not sitting, on 2 September 1994, pursuant to the resolution of appointment of 27 March 1992. I commend the report to the Assembly.

I would like to respond to comments that were made about our committee, which are rather serious. I know that other members of the committee wish to speak about them also. I put out a press release about the Bill introduced by Mr Stevenson. In it I said that recent comments have been made, both in the Assembly and elsewhere, concerning the examination of the Electors Initiative and Referendum Bill 1994 [No. 2] by the Standing Committee on Scrutiny of Bills and Subordinate Legislation. Those comments have suggested that, because the committee did not comment on the constitutional validity of the proposed legislation, it was therefore valid. It has been further commented that the result of a referendum under the proposed legislation would therefore be binding on the Assembly, provided the Assembly wants to pass the legislation.

The standing committee has terms of reference which set out what the committee can examine in relation to each Bill presented to the Assembly. I wish to point out that it is not within the terms of reference of the committee to say whether or not the Bill can make referendum results binding on the Assembly. The committee has specific terms of reference relating to personal rights and liberties, inappropriately delegating legislative provisions and other matters relating to technical scrutiny of legislation. The constitutional validity of any legislation passed by the Assembly is not for the committee to determine; rather, it is for the courts, who must decide whether any law passed by the Assembly is valid. I think we all respect the separation of powers. It is not incumbent upon the committee, which I chair, to make a decision of a constitutional nature. I wanted to clarify the statements that Mr Stevenson had been making to the effect that the committee does have that power.

MR HUMPHRIES, by leave: I want to support the comments made by the chairperson of the Scrutiny of Bills Committee. It is, perhaps, surprising that the Scrutiny of Bills Committee, in its capacity as the body that reviews Bills, as opposed to subordinate legislation of the Assembly, should not generally have the capacity, through its terms of reference, to review the power under which legislation is made. Certainly, in respect of its capacity to review subordinate legislation, it can, and frequently does, consider the power of a Minister to make, for example, legislation under a particular Act of the parliament. But the committee does not have a similar, parallel capacity to examine the basis on which legislation is made. That might appear to be an omission of some kind; but Mrs Grassby makes the point, which we need to bear in mind, that there is a role for our courts in determining whether or not legislation is valid.

There is also the matter of the resources available to determine questions of this kind. Whether legislation is capable of being enacted by the Assembly is a matter of enormous, in some cases, constitutional debate. We have had some debate about this in respect of section 65 of our own constitution, the self-government Act. Unfortunately, it will be an ongoing issue in some cases. It is probably better for the Scrutiny of Bills Committee not to be part of that process. It is better for the Scrutiny of Bills Committee to confine itself to the other matters - such as the efficacy of legislation, whether it trespasses on personal rights and so on - which are present in the Act, than also to consider matters of constitutional validity. To suggest that, because the committee has not looked at the question of the capacity to bind the Assembly to referendum results in Mr Stevenson's Electors Initiative and Referendum Bill, it has that capacity is quite fallacious, and the committee took no view on that subject. I have a personal view about that matter; but that, no doubt, will come out when the Bill itself is debated in this place.

MS SZUTY, by leave: I also would like to support the statements made by both of my colleagues on the Scrutiny of Bills Committee, Mrs Grassby and Mr Humphries. I refer to a media release issued by Mrs Grassby on 11 September to clarify the position of the Scrutiny of Bills Committee in relation to the constitutionality of the Electors Initiative and Referendum Bill. Mrs Grassby has appropriately referred to the committee's terms of reference, which do not include jurisdiction for us in relation to this particular issue. I think it is important that the committee has clarified its position in relation to the issue, given the statements which have been made in the public arena and in this Assembly by Mr Stevenson, the proposer of the Electors Initiative and Referendum Bill. In conclusion, I think it is important that the committee has responded to the issues that Mr Stevenson has raised and has set the record straight, for the benefit of the Assembly.

Sitting suspended from 5.07 to 8.00 pm

NURSES (AMENDMENT) BILL 1994

[COGNATE BILLS:

VETERINARY SURGEONS (AMENDMENT) BILL 1994
PHYSIOTHERAPISTS (AMENDMENT) BILL 1994]

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

That this Bill be agreed to in principle.

MR ACTING SPEAKER: Is it the wish of the Assembly to debate this order of the day concurrently with the Veterinary Surgeons (Amendment) Bill 1994 and the Physiotherapists (Amendment) Bill 1994? There being no objection, that course will be followed. I remind members that, in debating order of the day No. 1, they may also address their remarks to orders of the day Nos 2 and 3.

MRS CARNELL (Leader of the Opposition) (8.01): I will be very brief, as I think many of the comments that could be made about these three Bills have been made previously on other Bills in this series that have gone through this house; but I suppose that the thing that still needs to be said is that, although we totally support these Bills - and this is certainly no slight at all on the Government - the one thing that in Australia generally we are going to have to be aware of with the passage of these Bills through State parliaments is that we are going down the track of a lowest common denominator.

What currently is the situation, as I know Mr Connolly will be aware, is that, if people continue their registration in any one State, then they can be registered in any other State. New registration requirements cannot be placed upon those people. What that really means is that somebody who may have registered 20 years ago, who has not attended one extra piece of education and who has not read one journal in the intervening period is in a position of being able to register as a health practitioner in the ACT or, for that matter, in any State. I think it is something that is going to have to be addressed. I am sure that everybody in the health area believes that it should be addressed sooner rather than later, but it still has not been. It is unfortunate and it certainly is one of the downsides of mutual recognition. Apart from that, these Bills are well put together and well drafted, there have been appropriate consultations with the various people involved, and the Liberal Party will be supporting the Bills.

MR CONNOLLY (Attorney-General and Minister for Health) (8.03), in reply: As Mrs Carnell said, just about everything that could be said on these Bills has probably been said in a very short period. The issue about lowest common denominator that Mrs Carnell makes is a point that is well made. As one who attends a range of ministerial councils - the Chief Minister, of course, attends the COAG meetings - we often see the lowest common denominators, and often it tends to be conservative Premiers or conservative Ministers who get very upset at national uniform regulation.

Certainly, when we go down this path we need to avoid the experience of the United States, where certain jurisdictions set themselves up on very easy registration procedures. In the corporate sector, Delaware is notorious as the home of the dodgy corporation. "Delaware corporation" is a code for something a little shonky. There are certain universities that operate in certain States of the United States that provide you with a $200 PhD or a licence to practise medicine, law, or what-have-you, for an appropriate fee. We need to ensure that that does not occur in Australia. There is no indication that it will.

The issue of professionals doing their post-admission procedures - making sure, as you say, that they read the journals and do their continuing education - probably is best left to the professions themselves. The philosophy that has been prevailing in Australia in recent years is that government should be a little more deregulatory and leave professional standards up to the professions. It is a philosophy that this Labor Government is not a wild enthusiastic flag-waver on. To some extent, we would be more inclined to be a little bit interventionist in the public interest; but the view around Australia was very strongly that we should be a little less so, and we were prepared to go along with the flow. The reservations that the Leader of the Opposition has are reservations that we tend to share, but at this point in Australia's history the pattern is to move it down.

The other thing that is perhaps worth noting is the slightly incongruous situation - it has always struck me as such - that the veterinary surgeons are, in fact, administered by the Department of Health rather than the department of ACT administration that deals with dogs, cats, animals and such like. I have asked my Health bureaucrats on a number of occasions why it is that I administer vets. I am yet to receive an entirely satisfactory answer. Anyway, they are part of the package as well.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

VETERINARY SURGEONS (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.

PHYSIOTHERAPISTS (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.

CREDIT (AMENDMENT) BILL 1994

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

That this Bill be agreed to in principle.

MR HUMPHRIES (8.07): Mr Acting Speaker, this Bill makes a large number of changes to the Credit Act 1985. Most of those changes are technical and are designed to remove sexist language. The Credit Act is a complex piece of legislation. I suspect that it causes major headaches for financial institutions and is pretty well unknown. It is pretty well unknown to most credit purchasers in this community. Perhaps the only value in embarking on credit counselling and education, as this Bill, in fact, does, is to provide some more light on some of the more obscure provisions in this Credit Act, which is now, of course, being a 10-year-old Act, of long standing in the ACT. The Act's vicissitudes, however, are not an issue in tonight's debate.

I note the Attorney-General's comments in his presentation speech that the Government is working with others to try to create uniform legislation around Australia, and that, of course, is a matter to be applauded. This will be by legislation introduced into the Queensland Parliament, I understand, later this year.

Mr Connolly: It was introduced last week.

MR HUMPHRIES: It has been introduced and may well be adopted by other jurisdictions by reference at some point in the future. This will also, of course, occur, according to the Government's plans, at least in the ACT. There is before us tonight for debate a ministerial statement which also concerns uniform legislation but is in slightly different terms. The Credit Act in its present form may well, therefore, be on its way out. Nonetheless, we have amendments to it, I assume, to conform with changes being made in other jurisdictions. That is why we are dealing with those at this stage, rather than leaving it until the uniform Bill is available. Perhaps the Minister can enlighten us on that matter when he rises to close the debate.

This Bill widens the scope of the Credit Act. At the present time, credit contracts where the interest rate is greater than 14 per cent and the value of the contract is less than $20,000 are covered by the Credit Act. That obviously is out of date. We would all know that these days interest rates fortunately tend to be lower than 14 per cent and, particularly for purchases like cars and so on, the amount of credit usually being obtained is certainly in excess of $20,000. The idea of the legislation, therefore, is to bring more kinds of consumer contracts within the scope of the legislation. I note, however, that this will now be done by regulation, and it is proposed that the regulation will provide that the Act covers contracts where the interest rate is greater than 8 per cent and where the amount to be borrowed is less than $30,000.

There is one other provision at least foreshadowed in the Minister's presentation speech which I could not find in the legislation itself; that is, there would be a general cap on interest rates of 30 per cent. I understand that the Minister has acknowledged that there was an omission in the Bill itself. I thought of speaking to the Consumer Affairs Bureau about false advertising but decided that probably they would feel somewhat inhibited in dealing with - - -

Mrs Carnell: He might be only the second-best consumer affairs Minister.

MR HUMPHRIES: Indeed. I know that, for the best consumer affairs Minister in the country, that must be a slight problem - having falsely advertised what his own legislation is going to do - but I am sure that we can forgive him on this one occasion.

The other thing which the Bill does is to set up a financial counselling trust fund. This fund has the object of receiving moneys which are payable on breaches of the Act itself and is designed to be used for credit counselling, for credit and debt education, for research - I am not sure what the research would be into - for something called consumer credit litigation and for other matters as well. These are, I think, valuable activities; but I do have some questions about who will administer these moneys, and particularly whether it would be the intention of the Government to have the Minister directed by, say, the Consumer Affairs Bureau or whether bodies like CARE, for example, because of their credit and debt counselling, would have some role in conducting this consumer credit and debt education and possibly the research that is referred to in this Bill.

The money that I have referred to there is to be available by virtue of the Credit Tribunal finding that there has been a contravention of the Act. In those circumstances, rather than the tribunal ordering the refunding to the particular debtors of the moneys or charges illegally collected from them, it might order that the collection of those moneys that were illegally collected not be reversed and indeed continue but that a penalty should be paid into the trust fund. It will be interesting to see how this will work. You can assume that this would occur in a situation where a particular credit provider might have many thousands, tens of thousands, of customers, all of whom it might have overcharged a certain minor percentage or nominal amount, and in which circumstance it is highly impractical to actually calculate it and refund them all a very small amount of money.

Rather than refunding it directly to those consumers or those customers, the legislation provides that an equivalent amount be payable into this trust fund to do penance for the harm that has been done. Obviously, it would generally be employed where the contravention covers a large number of contracts but in a small way, and I assume that that is the intention of the legislation.

I note that clause 4 of the Bill amends the definition of "financial institution" to cover bodies that are registered outside the ACT. It has the effect of widening the catchment of the Act; but it does so apparently retrospectively to 1 July 1992, which was the day when the Credit (Amendment) Act 1991 passed by the previous Assembly came into force. I suppose that it could be seen as imposing a burden, by doing so, on some corporate citizens, which was not previously applied. As I have indicated before in debates on other matters, my party is not utterly zealous about retrospectivity, about adverse retrospectivity at least, and we have never taken the view that adverse retrospectivity is absolutely unacceptable.

In this case the amendment appears to clear up a genuine ambiguity in the legislation, and I am not aware of any credit provider who was unwilling to be caught by the Act. I have made some attempts to contact a number of credit providers in the ACT to ascertain their view about the legislation, and none that I have spoken to were concerned about it. I might say, though, that I did contact a number of organisations, large and small, who are providing credit in the ACT. Initially at least, none of them were aware of this Bill or its contents. It subsequently transpired that national umbrella organisations of at least some of these bodies had heard of the Bill. I am not sure whether they were told about it by an agency of the ACT or whether they have paid officers whose job it is to search out these kinds of Bills and bring them to the attention of their members. But it is a matter of concern that a Bill with fairly significant changes in the law relating to credit provision in this Territory should have been introduced and possibly have been passed without some clear consultation with the major credit providers in this Territory. Notwithstanding those comments, Mr Acting Speaker, I think this legislation represents some valuable changes to the law in this area which may be important in the lead-up to uniform legislation, and, as such, the Bill has the support of the Liberal Opposition.

MR CONNOLLY (Attorney-General and Minister for Health) (8.17), in reply: I thank Mr Humphries for his comments that are in support of this Bill. As he says, this is probably one of the last goes we will have at tampering with the ACT Credit Act, because we hope that the long awaited process of uniform credit laws is on the horizon. Some of his comments about consultation or the value of consultation caused me some concern. It was certainly my understanding that the industry was aware of what we were doing here. I suspect that what has happened is that everyone's attention has been focused on the national uniformity project, and some of these fairly technical amendments to ACT laws have probably not been high on the industry's agenda.

It really demonstrates, again, the need for national uniformity. At the moment there are eight separate legal regimes, differing in quite substantial form, applying to the credit provider throughout Australia. We operate in a single national market, with only very few exceptions - relating perhaps to the university or one of the financial institutions linked to the university. Anyone who does business in the ACT also does business in New South Wales and, in most cases, throughout eastern Australia or indeed

throughout Australia. It is a complex, time consuming and costly process for financial institutions to keep up with the law in eight jurisdictions. The cost, of course, is borne by the consumer because the banks and the financial institutions who have to make sure that all their contracts comply with different regimes in different States and Territories have to employ a bevy of lawyers. The consumer pays for that.

It is not uncommon for minor technical errors to occur, and the consumer, at the end of the day, pays for that. Even when there is a penalty imposed at the end of the day, the penalty gets borne out of corporate profits; so, the consumer pays. It is certainly my hope that the enactment of the uniform consumer credit package will lead to a more competitive market and, indeed, a better deal for consumers. It has taken far too long. I have attended consumer affairs Ministers meetings since we came back to office in 1991. At every meeting we have issued press releases saying that we have finally achieved uniformity, and then there has been backsliding and changes of position and it is all back to the drawing board.

I am very pleased that at last the legislation is in place. It is not legislation that is as strong or as pro-consumer as the Chief Minister or I would have liked; but, unfortunately, the shifting sands of Australian politics over the last few years have seen changes at ministerial council level and, hence, changes in position. Indeed, it was at the point that the ACT and Queensland governments were having some serious questions about whether we would stay part of the package, whether it was pro-consumer enough; but we eventually took the view, after consulting with the Australian Consumers Association and others, that uniformity was worth it and that, although it is not as strong as we would have liked, there is benefit to consumers.

There are a couple of specific points that Mr Humphries raised that I do need to address before doing a significant mea culpa. The *Canberra Times* is present. I thought they were not; but they are, so they will get it all. The trust fund is a significant benefit. There are many cases where a financial institution makes an error, is in breach of the Act, but the extent of penalty that would apply to an individual borrower would be $5 or $10 and it is hardly worth the consumer's while to get a tiny cheque. The administrative costs that it would place on the financial institution to track down every consumer who is owed $5 and make sure that the cheque is drawn, processed, posted and gets to the consumer could in many cases be more than a $5 cheque.

We set up a provision that where an error is found and a penalty is applied - that is, say, $5 per consumer - the financial institution can apply to the tribunal for an order that, instead of making those thousands of individual payments, potentially hundreds of thousands of individual payments, the money go in a single lump sum to this trust fund. That is obviously in the interest of the financial institution, in the sense that they pay their penalty but they avoid the massive administrative costs, and is potentially of great benefit to the community, because, instead of a few dollars going to a lot of people that would mean nothing, we start to build up a kitty that can be used for very worthwhile projects.

Orders to this effect have been made, I suppose relying on the inherent power of the tribunal to make a sensible order, which will now be clearly within power. I am pleased to say that some of those moneys have already been applied. It would be the Government's intention that the proceeds of these moneys essentially be used by the non-government sector. It would be very unusual for this money to fund the operations of the Consumer Affairs Bureau, although we may, from time to time, produce publications. The first major beneficiary was indeed the organisation Mr Humphries mentioned - CARE, the well-regarded Canberra consumer credit counselling agency. We have used some moneys that were recovered in this manner to fund the salary of a solicitor with CARE for a six-month period. It has been a significant benefit to CARE to have a qualified solicitor on the premises to assist them in their counselling exercises. That is the type of funding that we would expect to continue with.

The aspect of retrospectivity that Mr Humphries mentioned is explained on pages 2 and 3 of the explanatory memorandum. Far from being potentially onerous, this in fact is retrospectivity that assists the institutions. There could have been, through no fault of the institutions, a technical error because of poor definition or drafting in the 1992 legislation which could have put institutions to considerable bother in going through the tribunal. The Government took the view that, as they had clearly acted in good faith, we would put the definitions beyond doubt. It does involve an aspect of retrospectivity, that is true; but in the circumstances it is an aspect of retrospectivity that is, we believe, appropriate.

Now for the mea culpa. Mr Humphries mentioned that the speech referred to provisions for the capping of interest rates and he could not find those provisions in the Bill. Indeed he could not, because they are not there. We have had a somewhat confusing and odd saga here, which I became aware of only when the bureau contacted me shortly after Mr Humphries raised these questions with the bureau a week or so ago. It would appear that at some time in the recent past, within the last year or so, we had some break-ins at the Consumer Affairs Bureau - they are in commercial premises in the city - and during those break-ins bits and pieces, including some files, were stolen.

Mr Humphries: I have an alibi.

MR CONNOLLY: No, it was not Mr Humphries; I am sure that that is not the case. At the same time, the director of policy and legislation left the bureau to take a job in the Commonwealth. A new person came in, with the responsibility of looking after credit law. In this process, our main focus has been on the uniform package because we have been working very closely on that and, in fact, towards the end, when it looked as though it was falling apart, ACT officers played a very significant role in negotiating with some of the larger States and the consumer bodies to actually get general agreement. Everyone was focusing on that.

What happened was that a speech was written for this exercise. It made reference to provisions that may provide a cap on interest rates. The process of proposing a cap on interest rates has gone forward in a separate exercise which will be brought before the Government - in other words, the Cabinet process - at a future date as part, essentially, of the application exercise when we bring forward the legislation to apply the uniform credit law in the ACT. So, the paper trail that would have told the officer that the decision, bureaucratically, to proceed on this capping mechanism would be dealt with in a separate

legislative exercise and a separate Cabinet exercise got misplaced and the officer went ahead with the original speech. Not being aware of this - perhaps not checking - but again focusing mainly on the uniform exercise, he made reference in the speech to a provision that is, in fact, not in the Bill and has not yet been fully considered by government. For that reason, I am not seeking to bring forward urgent amendments to pick it up, because it is an issue of some significance and requires proper consideration by government and by the Assembly.

Mr Humphries: This is the Watergate excuse.

MR CONNOLLY: I do not think this is the Watergate excuse; nor do I think it is the streaker's excuse - I saw a profile on Senator Evans on the *7.30 Report.* It is the best excuse that we have, because it is the truth and is somewhat embarrassing, I must confess. But that is how the reference got in. I accept responsibility for not picking it up, and the only thing I can say is that really a lot of our focus has been on getting this uniformity package through. I should have realised that the reference in the speech to potential capping was incorrect and was part of another exercise that is moving along, but sometimes when you are moving along a whole range of legislative exercises you are aware that it is happening but you can get it misplaced.

That is the excuse, unsatisfactory as it may be but truthful, and Mr Humphries was correct in pointing out that the Bill does not contain a clause that was referred to in the speech. That is because it is going through a separate exercise. I will not be bringing an amendment before the Assembly this evening, because it is an issue of some principle that the Government needs to consider in the appropriate manner and that the Assembly, I think, needs to consider as a separate exercise. I thank the Opposition for their support for the legislation as it is before them.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

POSTPONEMENT OF ORDERS OF THE DAY

Motion (by Mr Berry) agreed to:

That order of the day No. 5, Executive business, relating to the Electricity (Amendment) Bill 1994, be postponed until the next day of sitting.

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

That orders of the day, Nos 7 to 9, Executive business, relating to the Bookmakers (Amendment) Bill (No. 2) 1994, the Gaming and Betting (Amendment) Bill (No. 2) 1994, and the Games Wagers and Betting-houses (Amendment) Bill 1994, be postponed until a later hour this day.

DISCHARGE OF ORDERS OF THE DAY

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

That orders of the day, Nos 26, 35, 38 to 43, 46 and 47, Executive business, relating to the Report of the Ainslie Village Board of Inquiry, Auditor-General's Reports Nos 1 and 3 of 1993, the Ministerial Statement on a Natural Death with Dignity, Auditor-General's Reports No. 2 of 1993 and those relating to Information Technology Management Policies and Financial Audits with years ending 30 June 1991, and the Exposure Drafts of the Lands Acquisition Bill, the Coroners (Amendment) Bill, Mental Welfare and the Crimes (Amendment) Bill, respectively, be discharged from the notice paper.

CRIMINAL CODE - COMMONWEALTH BILL
Ministerial Statement and Paper

Debate resumed from 24 August 1994, on motion by Mr Connolly:

That the Assembly takes note of the papers.

MR HUMPHRIES (8.32): Mr Acting Speaker, the ministerial statement before us tonight is pregnant with significance for the ACT. It poses several significant questions to our Assembly and it represents another, I think, significant first in the development of self-government. In one sense, the statement, with the Bill attached to the statement, is an invitation to participate as legislators not just for the ACT but for the whole Australian nation. It is a radical departure not just from the criminal law-making approach we have adopted in this Territory in the past but also from the very way in which we have operated, generally, here as a parliament.

The Minister has tabled a Commonwealth Bill, the Criminal Code Bill 1994, which was tabled in the Senate, I think, in the middle of this year. Despite being expressed to be a codification of the general principles of criminal law as applied under Commonwealth enactments, this Commonwealth Bill may possibly quite soon be not just the law in respect of Commonwealth offences but indeed the law of the Territory, despite the fact that there is a clear indication in the Federal Constitution that States and, by extension,

the Territories have primary responsibility for the enactment of criminal law. That is an area, traditionally, almost exclusively within the preserve of the States and Territories; yet this, in a sense, is proposing a major extension of those principles which apply Commonwealth law to the States and Territories. Although it is not being formally proposed tonight that we in fact adopt this Bill, in a sense what the Assembly is being invited to do is to consider the adoption of this legislation as the law of the Territory in due course, and in particular to examine tonight the principle that we should be prepared to adopt a piece of legislation from another jurisdiction as the standard codified law of this Territory.

There are three things which I think are being aimed for in the Minister's package. First of all, he seeks to make, at some point in the future at least, quite significant changes in the criminal law of the Territory. I do not propose to discuss those changes in detail tonight because we are not actually being asked to vote on those changes tonight. Secondly, he seeks to pave the way for the codification of criminal law principles which are applied in our courts on a day-to-day basis. Thirdly, he seeks to adopt by reference a Commonwealth or national law to become the law of the Territory. It is not particularly significant that it happens to be a law of the Commonwealth. In the previous debate we spoke about the adoption of a uniform credit Act which will probably be Queensland legislation. So, it is not particularly important which jurisdiction we pick up. The point is whether we, with other jurisdictions, decide to adopt the legislation of the particular State or Territory or the Commonwealth and use that as the law which we all, across the country, enact as our own law.

I want to touch on those three questions in turn. First of all, there is the question of codifying criminal law principles applying in the Territory. The Minister talks about statute law and about common law and argues that it is important to be in a position to codify the criminal law principles which are used by judges and magistrates in our Territory, the argument being that if a person wishes to know what the law is they should be able to go to a particular document - in this particular case, this document - and find out what the law is, rather than seek it in a number of diverse sources. He does make this claim in his presentation speech - and I should address this - referring to those particular principles of criminal responsibility:

... these principles are largely unwritten, forming part of the common law.

I think, with respect, that goes too far. If the common law is not written down, then where is it; how do we know what it is? I think the Minister meant to say that the common law of Australia, indeed of this Territory, is not available in any one place to refer to but in fact is available, is to be found, in a great many sources - decisions of our own ACT courts, decisions of the High Court, decisions of superior courts in other jurisdictions in Australia, decisions of the House of Lords and the Privy Council and indeed of lower courts in the United Kingdom, sometimes even judgments of courts outside those places. So, there are an enormous number of places where we can look to see what the common law of the ACT might be.

The Minister makes the very pertinent, the very timely claim that it is important for us to be able to bring the law to a state where it can be, as far as possible, ascertained by reference to a single document or a single source. So, we are not so much writing down the common law principles or writing down these criminal law principles, but we are writing them down in a particular place where they can be easily found.

I should say that, in terms of the argument between common law and statute law, there is nothing wrong with common law. The reference by the Minister to the common law principles being largely unwritten seems to reinforce a prejudice that might be held in some people's minds that common law is inferior to statute law. Common law is, of course, essentially judge-made law; and statute law, of course, is law made by parliament. Common law is very old. Common law is very flexible. It is determined by judges hearing particular cases or hearing appeals from particular cases, deciding whether justice is done by the application of an existing law in a particular way or not. I think we should recognise that common law has evolved, in a very real sense, to meet the needs of ordinary people. It is wrong to suggest that statute law is superior in this sense because, in a sense, it is made by people who are sitting in a parliament like this, who are dealing with a law in a theoretical fashion; whereas judges who make common law do so often with real people sitting before them, sometimes in the dock, sometimes as litigants before them, and make the law which, in their view, best suits justice in those particular cases.

In addition, I do not believe that, by enacting legislation such as this uniform Criminal Code or by attempting to codify the criminal law, we in fact abolish common law or remove the right of judges to formulate the law of the land. Indeed, it is arguable that, because common law is natural, it has a life of its own and statute law is, in a sense, artificial, there will always be common law. Members should be aware that, as fast as the legislature makes laws in a piece of paper, it falls to judges and magistrates to interpret the law, and every time they interpret the laws that we enact in this place they, of course, establish common law because, by their ruling in a particular case where two parties are arguing about the meaning of a particular word in a statute or a particular phrase in a statute - that it has X meaning rather than Y meaning - that becomes, if it is a superior court at least, the law of the land. That interpretation becomes the law which is, in a sense, tacked onto the statute law. As law is codified, I think it is true to say, the common law grows on it - a bit like mould, you might say. We cannot abolish the common law, therefore, unless we also abolish the principle that lawyers refer to as star-rated chasers, that is, something has already been decided and should be applied consistently by other courts as a previous court has decided it.

Of course, having said all that, there is a very good, very powerful reason why we should be moving, wherever possible, particularly in a case like this, to codify our law and attempt to make it available to ordinary people in a single place. By reason of having laws which differ from jurisdiction to jurisdiction we place citizens in the sometimes abhorrent position that an act that they might do in one place in this country could be an innocent act, an act with no consequences, or an act with certain consequences which are utterly different to the consequences of performing exactly the same act in a different place; that is, doing something in Canberra might have quite different consequences from doing the same thing in Queanbeyan.

Where we are talking about the criminal law, where a person's liberty is at risk potentially, or their money sometimes is at risk, by virtue of doing certain acts, it is incumbent on us, I believe, to work towards a situation where a citizen can be reasonably certain that what they do anywhere in the country will have the same consequences in terms of the criminal law. That is why, Mr Acting Speaker, despite my reservations about the value of common law and my view that there is certainly still a role for State and Territory parliaments to be making laws in these areas, we strongly support the principle that codification, particularly of the criminal law, should be attempted and that that should be aimed for as a national project to which all Australian jurisdictions subscribe.

I might say, moving to the second question - the adoption of uniform law - that we cannot achieve uniform law unless we have a model or a template, and in this case the Commonwealth is in the process of enacting law which would indeed constitute that template. There is a danger with this approach that we might work on the principle that the lowest common denominator should prevail and that only those things on which all nine jurisdictions in Australia can agree should be incorporated in this kind of code. I do not think, looking at the code that is in front of us tonight, that is actually what has happened; but I do think that is a danger which we must be alerted to.

I think it is also important to place an important caveat on this process. I do not believe, and my party does not believe, that, by striving to achieve uniform legislation throughout the country, we should therefore forgo, or permanently surrender, the right of States or Territories - the second tier of government, in other words - to make law in this area. A very good example of this kind of divergence in law-making, of course, is the present controversy about the so-called anti-gay laws that are in force in Tasmania. It is apparently the view of other jurisdictions that those sorts of laws not be enforced. It is apparently the intention of the Tasmanian Parliament that they remain in force. So, we have an interesting conflict between what other Australians think should be the law in Tasmania and what the Tasmanian Government, at least, think should be the law in that place.

For the moment I put to one side the question of whether those laws are good or bad laws; but I will say that I think it is very important that we understand that, under the present constitutional arrangements in this country, it must be the prerogative of individual States and, by extension, Territories to make laws that they consider to be in the best interests of their own citizens. If the situation were reversed, and if we were being imposed upon by other jurisdictions in respect of a law which we strongly believed it was important to preserve or maintain for our citizens, then we would certainly be very jealous of that principle and be prepared to defend it vigorously against the suggestion that uniformity should mean the right to forgo our right to enact legislation particularly applicable to the ACT. However, by a process of negotiation and consultation, it seems to be possible to agree on at least the important principles underpinning our criminal law and to agree on those across the country. That will, I think, be a major achievement. There may be other areas in which agreement cannot be reached. That, however, does not detract from the main exercise.

Mr Acting Speaker, as I indicated before, I do not propose to comment in detail on the particular provisions in the law, in the Criminal Code itself. There are some interesting changes being made to the criminal law, which relate to all sorts of things ranging from the law of mistake to the law concerning conspiracy. One particular thing which I think we would all applaud - I will comment on it only very briefly - is changes to the law concerning self-induced intoxication. It has been held by our courts that a person who is intoxicated lacks the intent to commit criminal offences. So, a person who is completely drunk would, in theory at least, be able to avoid a conviction for murder, because in that state he or she can kill somebody else. It is clearly indicated in this code that that kind of defence is not to be generally available, although it may have the effect, for example, of reducing a murder charge to a manslaughter conviction. I think we would generally accept that that is a welcome development in our criminal law.

There are many other significant changes in this code which I do not have the time to discuss this evening but which, of course, we will have a chance to discuss in detail when the Government asks us to enact this as the law of the Territory, which they will do, I assume, at some point in the future, although I note that in the presentation speech the Minister says:

My tabling of the code is intended to initiate debate at a local level on the merits of a national criminal code and the desirability of codifying the general principles of criminal responsibility, without committing the Government to that course.

I assume that they are committed in principle but have yet to decide on exactly how they will achieve this.

I finally comment briefly, Mr Acting Speaker, on the drafting of the Criminal Code Bill. It is a very interesting example of plain English drafting. For example, the sometimes cumbersome definitions section early in the Bill has been replaced by something very helpfully called a dictionary at the end of the Bill, in which things are defined in a fairly clear fashion. The language used is a very clear and straightforward form in a style which, one would imagine, most people would be able to digest fairly simply. However, that is a debate for another day. With the reservations I have expressed, I believe, Mr Acting Speaker, that we have made an important step tonight, at least in discussing and, by implication, accepting the idea that we should go down this kind of path. I believe that it is important to accept the limitations of this approach; but it is a valuable approach in achieving a very important goal, namely, the codification and uniformity of legislation in the area of criminal law around the whole of this country.

MR CONNOLLY (Attorney-General and Minister for Health) (8.50), in reply: I thank the Opposition for their constructive contribution to this debate. Since I made the statement in the house that sparked this debate, the Prime Minister opened in late August at Parliament House a major forum on access to justice. That was attended by people from around the country. One of the key points that he made about this search for easier access to justice and a more affordable system of justice - a search that governments and parliaments around Australia are engaged in, that the Government is looking for solutions on, that Mr Humphries's Assembly committee is looking for solutions on - is that in

a country of fewer than 20 million people, when we choose to run our affairs by way of eight State and Territory parliaments and a Federal Parliament, you are inevitably going to have a more complex legal system than you need to have and hence a more expensive legal system.

The Prime Minister made the point that a very sensible goal for 2001 would be to aim to have a uniform criminal law throughout Australia. For all the very sensible reasons - and Mr Humphries canvassed many of them - it is absurd that a citizen who moves across a State border, which is becoming increasingly less relevant as we move to a national market and a national economy and seeing ourselves as a nation, should be subject to radically different legal regimes. The cost of informing people of their legal rights is magnified. It is not possible to buy a simple book that tells the Australian citizen what their rights are. They are not published, but they seem to be fairly complex. They have a chapter and then a whole series of, "This is not quite the case in Victoria and it differs in Queensland, and there is a separate regime in South Australia". You cannot even publish simple information for citizens of Australia about what their legal rights and duties are, because the situation varies so much from State to State.

Unfortunately, at the time the Prime Minister made those eminently sensible remarks, the controversy over the Tasmanian gay laws was raging, and a number of conservative politicians in the Federal Parliament and in States around Australia were immediately frightened - it immediately frightened the horses - and they assumed that the Prime Minister's very sane and sensible call for a single criminal law throughout this country was part of some dastardly Labor plot to centralise power in Canberra. There was a series of hysterical press releases issued, and rantings from the parapets of the various State parliaments around Australia, about the evils of a uniform Criminal Code.

I am sure that many of my counterpart Attorneys-General who are of a conservative persuasion would have been wincing at some of their colleagues' extreme reactions, because this is not an area that we should play silly partisan politics over. For too long Australia has had inefficiencies because we have a first recourse to States rights and we say that we simply cannot in principle move for uniformity because it would mean a loss of States rights. As Gough Whitlam said 20 years ago, "States do not have rights. People have rights". They are the things we should be focusing on.

I welcome Mr Humphries's agreement at least to go down the path of reform here. As I said when I introduced this, this will not be something we will be rushing through. We will want a lot of debate on the subject. The Prime Minister's goal of 2001 to finish this codification of the criminal law exercise is probably about right. So we have a few Assemblies to go before it is finalised, but it is refreshing that at least in this jurisdiction we have a level of bipartisan agreement that it makes sense to go down the path of national codification. We would have a far more accessible justice system in Australia if those sentiments were shared in State parliaments around the country.

Question resolved in the affirmative.

LIQUOR (AMENDMENT) BILL 1994

Debate resumed from 24 February 1994, on motion by Mr Connolly:

That this Bill be agreed to in principle.

MRS CARNELL (Leader of the Opposition) (8.54): Mr Acting Speaker, the purpose of this Bill is to try to tidy up problems with occupancy loadings, ones that have been bubbling along for over 12 months now since the Bill was initially passed. The problems are that determinations of occupancy loadings, that is, the number of people per square metre, are inconsistent, sometimes defy commonsense and currently are not subject to review by the AAT.

For example, you have two clubs with the same floor area. The first one has one exit that just makes the grade. The second one has many wide and clear exits and, in terms of moving people quickly away from an emergency, is twice as safe as the first club. But, because their floor areas are the same, both are granted the same occupancy loading. It simply does not make sense. In this example there is no incentive to install better exits; there is no incentive to make the building safer. The source of the problem is the way the Liquor Act is worded. Under the current Act, the Fire Commissioner assesses the occupancy loading for a public area and then the Registrar of Liquor Licences sets the occupancy loading in conformity with that assessment. In other words, whatever the Fire Commissioner says, the registrar must do. There is no flexibility, no discretion and no provision for review.

The amendment proposed by the Minister in this Bill would enable the Fire Commissioner's assessment to be reviewed by calling it a "recommendation" on which the registrar's decision is based, rather than an assessment with which the registrar must conform; that is, the Bill, if adopted, would allow the registrar to depart from the Fire Commissioner's recommendations. I know that the Minister is well intentioned in proposing this change, but it would still not solve the underlying problem because the registrar has to rely on the Fire Commissioner for technical information and advice. So, at the end of the day, the decision on what is the safe number of people that a public area can accommodate comes back to what the Fire Commissioner says. Hence, even if the registrar wished to set an occupancy loading different from the recommendation by the Fire Commissioner, he or she would have to go back to the Fire Commissioner for advice on the exit capacity of the building in question. In any event, although the effect of this Bill would be to give discretionary power to the registrar, he or she would not want to take the risk of departing from the Fire Commissioner's recommendation, for fear of being held liable in the event of injury or death from fire. To reiterate, the wording of the Act in defining "occupancy loading" is the problem. The Minister's Bill does not address this problem.

As the Act is worded in section 4, the Fire Commissioner must calculate assessments of occupancy loading strictly in accordance with the Building Code of Australia, the BCA. The Act specifies that the Fire Commissioner must not contravene Part D1.13 of the Building Code, which deals with the area per person according to use; neither can he contravene Part D1.6 of the Building Code, which relates to exit capacity.

He is locked in. So, there is a limit set by, first, the number of people per square metre of floor area and, secondly, the dimensions of the exit. In order to stay within the wording of the Act, the Fire Commissioner determines which of these two measurements gives the lower number of people who can occupy that area. The commissioner then advises the Registrar of Liquor Licences of his assessment and the registrar issues a determination. It is not hard to see where the process goes wrong. For a start, the Building Code of Australia is meant to be only a guide, not the letter of the law. Let me use an example from, say, the world of pharmacy. You do not apply the average dose of medication to every person; you make allowances for age, body weight and so on. So, sometimes you give less than the average and sometimes you give more. Similarly, the Building Code was never meant to be applied uniformly in all situations. It is meant to be only a guide.

Secondly, writing the Building Code into the Liquor Act in such an inflexible way puts the Fire Commissioner in a position of being liable in the event that a person suffering injury may sue for damages if the commissioner should vary from the letter of the code. Naturally, he will protect himself by picking the lowest number.

Thirdly, the process, rigidly adhered to, leads to anomalies, inequities and disputes. For instance, premises with a very high exit capacity may have the safety advantage totally ignored because of a fixation over the floor area. Clearly, it is not only the dimensions of exits which matter; there are other factors that should also be taken into account when making an assessment of safety, such as sprinklers, presence of combustible material, distances to evacuate, visibility of signs and so on. I am sure that every member would agree that, provided people are comfortable and not inconvenienced by overcrowding, it is not the number of people per square metre which matters so much. The most important consideration by far in setting occupancy loadings is safety, and by far the most important factor affecting safety in public premises is exit capacity - the rate at which people can leave in case of fire or emergency. The only effective way of setting occupancy loadings to reflect exit capacity, while maintaining reasonable and sensible floor loadings, is to give the Fire Commissioner flexibility. Do not tie his hands with rigid rules. Give him flexibility to recommend higher loadings, provided the exits are suitable.

Significantly, Mr Connolly himself has said that some flexibility would be appropriate; for example, to reflect possible differences in exit capacity between upstairs and ground floor premises. That was in the Estimates Committee hearing on 5 October 1993. However, the amendments proposed by the Minister tonight simply do not do that. Although Mr Connolly's Bill would mean that the registrar would no longer be required by law to conform with the Fire Commissioner's assessment, it fails to address the fundamental problem of tying the commissioner's hands. It would do nothing to overcome the justifiable complaints of industry that occupancy loadings in the ACT are sometimes unreasonable and unfair. As I have already demonstrated, what is required is to allow the Fire Commissioner the flexibility to exercise his professional judgment in making recommendations on occupancy loadings.

For this reason, I foreshadow amendments to require the Fire Commissioner, in making recommendations on occupancy loadings, to have regard for the Building Code restrictions on the number of people allowed per square metre, without being strictly bound by it, and to retain the limit set by exit dimensions. My amendments have already been circulated to members. Essentially, what I will be proposing in the amendments is that occupancy loadings should be driven by safety considerations rather than floor area alone. We certainly do, though, support Mr Connolly's amendments to this Act to ensure that there is review by the Administrative Appeals Tribunal, to ensure that people have a capacity to seek that review.

MS SZUTY (9.02): In speaking at the in-principle stage of this debate, I am reminded very much of the debate on the Liquor (Amendment) Bill of 13 May last year and, in particular, of the primary reason for the Bill being passed unanimously by this Assembly. That reason, I believe, was that there was an understandable concern among Assembly members, licensing authorities, police and the fire and emergency services about the potential hazards associated with the overcrowding of licensed premises in emergency situations. At that time all Assembly members were aware, I am sure, that some licensed premises were, at times, overcrowded, and, as I recall, Tilley's was often mentioned in this context. I also remember thinking at the time of a number of tragic occasions overseas when multiple deaths had occurred as a result of people trying to escape from fires in discos and nightclubs. It was clear at the time that the Assembly needed to enact appropriate legislation to ensure, as far as possible, that the problems encountered in other countries were not repeated in this Territory.

Mr Acting Speaker, I held this view at that time, and I still do today. However, in this instance it appears that the pendulum may have swung too far in the other direction, to the detriment of licensees and their patrons. I understand that the Registrar of Liquor Licences and the Fire Commissioner have both received advice from the ACT Government Solicitor that under the Liquor Act any recommended occupancy loadings that deviate from the Building Code of Australia's Part D1.13, which Mrs Carnell referred to, which relates to area per person, and Part D1.6, which relates to exit capability, may leave them legally liable in the event of an emergency. Naturally enough, as a result of this advice, the registrar's decision must always conform with the assessment of the Fire Commissioner and that assessment, in turn, is definitively based on Parts D1.13 and D1.6 of the Building Code of Australia.

I also understand that, despite the licensee's right of review provided by section 104 of the Act, the Administrative Appeals Tribunal has determined that this right of review is not available when the registrar's determination conforms with the assessment of the Fire Commissioner. This means that, to all intents and purposes, the Fire Commissioner's assessment is the final determination of occupancy loading for licensed premises, and this determination is not appealable.

Mr Acting Speaker, the Attorney-General has rightly introduced this Bill to rectify this technical problem with the Liquor Act. As the Attorney-General said in his presentation speech, "This outcome is clearly an unintended consequence", and I welcome the fact that the Government has moved to ensure that licensees who believe that the registrar's determination of occupancy loading for their premises is inappropriate will be able to have the decision fully reviewed by the Administrative Appeals Tribunal.

MR CONNOLLY (Attorney-General and Minister for Health) (9.05), in reply: Mr Acting Speaker, there are two issues for debate this evening. I think there is unanimity on one, and that is that there should be an amendment to the existing package to ensure that the AAT can review the merits of the decision by asking: Was the Building Code of Australia correctly applied? That was always our intention. A ruling was made in the Administrative Appeals Tribunal that, in fact, all that could be considered on appeal was: Did the decision maker correctly apply the number that the Fire Commissioner came up with? If the Fire Commissioner said 322 and the liquor licensee said 350 or 300, you could appeal against that; but you could not appeal on the basis of whether the 322 was correctly applied. That was incorrect and we should have fixed that, and we said very quickly that we would.

At the time, though, there was considerable industry opposition to the principle that the Building Code of Australia should strictly apply. Industry very loudly said, "This is unfair. There should be more flexibility. We have tougher laws in Canberra than in other parts of Australia". I said at the time - Mrs Carnell correctly quoted me - in October last year, "We have no set Government views on this. This is not a major issue of party politics. We will look at it". I did say that. We did look at it, and the advice that we got from police and from fire authorities was not to change the current method of calculation.

I made public - I am not sure whether I tabled it in this place, but I am happy to do so - advice that I received in November of last year from Mr Dawson which referred to the amendments. The amendments were made in June, so this advice in November is really looking at the first few months of operation. He says:

Since the introduction of the legislation there has been a noticeable improvement in the behaviour of patrons. Police believe the reason for this is that patrons are more comfortable and there is less jostling. Similarly, there has been a noticeable decline in the number of disturbances, inside premises, reported to police. The legislation has also allowed police better access to licensed premises to monitor the adherence to liquor licensing laws, and the safety and behaviour of patrons, as well as attend incidents.

He continues:

As a result of the legislation, patrons of licensed premises now have a safer environment and the threat of a major incident, which could injure or maim a large number of persons, has been significantly reduced. It is my view that the occupancy loading limits are appropriately set and should remain.

The advice of the Fire Commissioner is the same. I will table both of those. I have certainly shown them to the Opposition in the past. The Fire Commissioner in May of this year again says that it is an adequate regime.

We said that we would be happy to look at industry's concerns. I said in good faith, "Yes, we will look at industry's concerns". We asked them whether they could come up with different schemes, but the advice of my principal advisers on matters of public safety is that it is unsound to do so. Really, we are confronted here with a question of whether we put public safety first or whether we put the interests of squeezing more people in to make more money first - and it is as blunt as that - and the Government is firmly in the position of putting public safety first. Yes, you might be able to squeeze more people into some premises, which may have better fire safety. But it is not just fire safety; it is the police saying that in that report.

One of the big benefits of the legislation from their perspective - and we were not aware that this would be a benefit when we put it through, I concede; this was not something we stressed in the introductory speech - is that in some well-known bars, which were once like a sardine can on a Friday or Saturday night, and where it would be virtually impossible for the bar staff to tell the age of the arm that came through the crowd with the $10 note to buy the alcoholic drink or to assess whether that person was intoxicated or not, you now have an environment where patrons are less crowded, where bar staff can be expected to form those judgments, where the beat squad, as they go about their duties on a Friday or Saturday night, tend to make it their business to wander through the various premises on a number of occasions on a Friday or Saturday night, can see what is going on. They are not looking at a seething mass of humanity squeezed in at a downstairs bar; they are looking at a controlled and manageable crowd.

So, for those reasons, the Government is not convinced that it is prudent for the Assembly to reduce the safety standard. We introduced a safety standard. We then said to industry that we would embark in good faith on a process of reviewing that safety standard. We looked at the industry's various statements. It is true that our standards are tougher than those in some parts of Australia.

Ms Szuty: All parts.

MR CONNOLLY: No, it is not true of all parts. The Registrar of Liquor Licences went through a process. There are some places where you could squeeze a few more in and some places where we are a bit more generous than in some parts of Australia. Certainly, there are Sydney councils that have a lower standard on crowding patrons into premises than the ACT has. In my view and in the Government's view, Mr Acting Speaker, that is not a reason for us to go down to that standard. I think Mrs Carnell referred earlier tonight to lowest common denominators, and that was a very appropriate phrase.

Mr Acting Speaker, this is an issue that has been around for some time. I do have some regrets in regard to industry that, with the pressure of Assembly processes, we were not able to get on with the debate. This Bill was introduced many months ago, but we have not been able to debate the issue of ensuring that the proper AAT appeal point is there. That has been frustrating for industry, and I apologise for that. But the Government is not in a position to agree to reducing, relaxing or providing concessions from the Building Code of Australia standard. We believe that that is a safe standard.

The advice of our principal public safety adviser is that since the code has been in place there has been a noticeable improvement in public order in licensed premises in Civic; it is easier for police to keep an eye on what is going on; it is easier to monitor behaviour in licensed premises. We have had, as a separate exercise, of course, the code of practice for safe drinking in Civic. We disagree with the AHA on this proposal; but the AHA has enthusiastically supported the responsible code of practice for serving alcohol in Civic, the safer Civic initiative. It is just easier to conduct all those sorts of initiatives when you have control of crowd numbers. It is not just about fire exits; it is about safe crowd numbers.

The Building Code of Australia provides a formula which is rigid but which is fair and objective. You cannot have questions about whether one premises got favourable treatment over another, which I must confess is a matter of some concern over the foreshadowed amendments when you start to build in discretions. Particularly in this industry, there can always be suggestions that somebody got an inside running and somebody got a better deal than another. Under this regime it cannot be suggested that the Fire Commissioner or the Registrar of Liquor Licences looked more favourably on one premises than another. There is some movement under the Building Code of Australia because there are differing requirements for a bar area as opposed to a restaurant as opposed to a dance floor; so, there is some room for flexibility as to what is a bar and what is a dance floor. But they are at least very objective.

Mr Acting Speaker, when it comes down to it, this Assembly unanimously passed a measure as a public safety measure. There was concern from industry that we had gone too far. I did say at the time, and meant it, that we would be prepared to look at industry concerns. We went through a process of consultation; we looked at industry's figures; I went back to public safety advisers and said, "What do you think? Should we abandon the current Building Code? Should we build in some flexibility or some discretions?". The advice that I got, the advice that the Government has acted on, was that we should not abandon the current regime; we should not put anything before public safety in this important area. I must say that it surprises me that the Liberal Party - given their general enthusiasm for matters police, matters public safety and matters public order - in this case are taking a contrary view.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

Bill, by leave, taken as a whole

MRS CARNELL (Leader of the Opposition) (9.14): I ask for leave to move together the two amendments circulated in my name.

Leave granted.

MRS CARNELL: I move:

Page 2, after clause 4, insert the following new clause:

Interpretation

"4A. Section 4 of the Principal Act is amended by omitting 'or Part D1.13' from the definition of 'occupancy loading' in subsection (1).".

Page 2, line 5, clause 5, paragraph (a), after "recommendation", insert ", made having regard to Part D1.13 of the Building Code,".

Mr Acting Speaker, I have already run through the reasons why I believe that this is the appropriate way to go for licensed premises. Mr Connolly has been extremely simplistic in his approach to this whole matter. In his comments before, he suggested that the difference between my amendment and his initial Bill was the difference between a seething mass - to quote Mr Connolly, I think his words were that "the bartender would just see an arm plunging through the crowd seeking another drink" - and a very ordered, nice, very well-mannered bar area. That is simply not the case.

What my amendment does is not significantly change the issues involved here at all; what it does is simply make them fairer. What it does is make sure that bar areas, say, at ground level with good exit capacities, where people can get out in a hurry if there is a fight or a fire or any of those sorts of things, do not end up with exactly the same occupancy loading as a similar sized premises on the first floor with a single set of stairs. That is exactly what the current situation is. It is simply ridiculous. What we have to do is not have ridiculously restrictive public safety laws and the sorts of things Mr Connolly was saying. If we had only two people in every bar, then there would never be a fight. Maybe we should have only one and then they could not fight with themselves. You simply cannot go to that sort of length. Obviously, if you put fewer and fewer people into these nightspots there will be fewer fights. Where is the happy medium?

We believe that the flexibility that this amendment gives allows for that sort of balance and allows nightspots to have extra patrons if they have gone to the extra or added expense in some cases of having good, solid exit capacity - in fact, a good capacity to get out in a hurry if there is a fire or whatever - whereas others have not done that.

We are looking at making sure that those premises, if the Fire Commissioner believes that it is appropriate - and only if he does - would be able to have extra people, a higher occupancy loading, than those that do not have such good exits. It seems to be a totally logical approach, an approach that ensures that there is a balance between business and ensuring that nightspots can have as many people as is safe, which is exactly - - -

Mr Berry: You would risk life.

MRS CARNELL: That is just silly, Mr Berry, because the Fire Commissioner has to have given the okay.

Mr Moore: Wayne does not trust fire commissioners.

MRS CARNELL: Does he not? Actually, there was a history of that, was there not? Yes. What these amendments do is try to end up with a balance where there is some flexibility, where nightspots are actually encouraged to become safer - rather than have no encouragement whatsoever - and also ensure that we do not actually totally lose the atmosphere of nightspots while maintaining safety.

MR CONNOLLY (Attorney-General and Minister for Health) (9.18): Mr Acting Speaker, I regret to say that it appears that the Government is going to lose this debate. I get a feeling that the Government may not succeed in this matter, and that would be very regrettable. As I say, we have acted purely on the advice of public safety officials. Those officials have been available to provide briefings to Independent members. I am not sure whether that has been taken up. The Independent members can speak about that. The written advice that I have been given - I will table the police advice - is that it would be better to leave the current laws in place, that the current laws should be left in place. In the process of consultation that I went through, quite openly and honestly, the police advised me not to tamper with the current laws. The occupancy loading limits are appropriately set and should remain. I table that advice from the Chief Police Officer.

The next time you people are ranting and raving about police powers and move-on powers and all the rest of it, I will be happy to remind you and to remind the community that when push came to shove - and when it is a question of cramming a few more patrons into a few Civic nightspots to make a few more dollars, as opposed to police advice and a matter of public safety - the Liberal Party showed where their colours were. Bah, humbug, Liberal Party! Bah, humbug, when you rant and rave about police powers and claim to be the party that represents public safety, because on this issue you have chosen to ignore some advice about public safety and to go and basically say, "We will cram a few more people in to make a bit more money, and that is what we are all about as a Liberal Party". I regret that, and one would hope that we do not have an incident as a result of that.

Mrs Carnell: You have not any faith in the Fire Commissioner, have you?

MR CONNOLLY: As I say, this is not just about fire. It is about public safety. The clear police view is that we have had improvements in public safety inside premises since these rules were set. While it may be safer from a fire perspective to be in a ground floor bar as opposed to a second floor bar, from a public safety and public order perspective - monitoring crowd behaviour, monitoring under-age drinking, monitoring offences - it matters not whether you are on the first or the second or the third floor.

The Building Code of Australia provides an objective, sound basis for crowd control and for crowd numbers. That is why the Government acted on the Building Code of Australia. We in good faith spoke to industry. We went to our public safety advisers, and the advice that we got - and, as I understand it, the advice that remains from those ACT Government authorities responsible for this matter - is against any change. It is a matter for the Assembly.

MR HUMPHRIES (9.21): Mr Acting Speaker, I think the Minister is right when he says that he senses that the Government is not going to succeed. I draw that conclusion from the childish way in which the Attorney presented his arguments tonight. Arguments with the sophistication of "Bah, humbug, Liberal Party! Bah, humbug, Liberal Party!" seem to suggest to me that the Minister has run out of logical arguments and needs to resort to a bit of old-fashioned name calling. The Liberal Party has not lightly gone down the path of recommending the amendments moved by Mrs Carnell.

I want to put the Minister right on the question of consultation. We did have an invitation to consult with officers such as the Fire Commissioner and officers of the Liquor Licensing Board, and we took up that option. We had meetings with those people. I think, Mr Acting Speaker, for the Minister to suggest, perhaps for the purposes of debate in this place, that there has not been that consultation, to suggest that we have made this up on the run and we have not thought this through, is quite unfair.

My understanding, Mr Acting Speaker, is that the Fire Commissioner is comfortable with the approach which has been suggested here and believes that it is capable of being made to work. In those circumstances I think the better approach is the one suggested by Mrs Carnell, because it acknowledges that the present arrangement is inflexible and does not always deliver a logical result. Above all, I think we need to be working in this place towards outcomes which make sense to people in an ordinary, everyday environment. Certainly, some of the outcomes being produced at the present time in that respect do not make sense either to owners of premises in this community or to patrons. I am not suggesting that they necessarily have a better view of these things than do fire officers or police; but I do suggest that there is certainly scope for more flexibility, and that is what Mrs Carnell's approach produces.

It is scandalously untrue to suggest that hers is the kind of callously profit oriented approach which Mr Connolly has referred to. Mrs Carnell's approach is designed to make safety an uppermost consideration at all stages, but to provide more flexibility than is inherent in the present approach of the Government.

MS SZUTY (9.23): The Liquor (Amendment) Bill fixes the technical problem with the Act, as we have just dealt with it; but it does avoid addressing the broader issue of what are appropriate occupancy loadings for licensed premises in the ACT. It may well be that, in the Assembly's commendable zeal to minimise the likelihood of an emergency resulting from overcrowding, we may have gone too far. I believe, Mr Acting Speaker, that we have gone too far. As Mrs Carnell said earlier, "By far the most important factor affecting safety in public premises is exit capability, the rate at which people can leave in case of fire or other emergency". It would seem to me that, provided sufficient exit capacity is provided, some degree of flexibility could be applied when considering the area per person component of the equation.

I have considered the approach taken in other jurisdictions in Australia and note that the assessment of exit capacity is the single common denominator across these jurisdictions. The area per person, or number of people per square metre, varies from State to State and in many cases is a guide only, rather than a prescriptive number. What is clear is that the ACT's requirement for one square metre per patron in bar and other standing areas is significantly higher than it is elsewhere in Australia, with New South Wales requiring only half of that area.

Also, Mr Acting Speaker, there is room for legitimate concern that, while the Bill will allow licensees to appeal against the decisions of the registrar, it will not change the current practice of the registrar's decision being the same as the Fire Commissioner's recommendation. The best way of implementing change in this area is to give the Fire Commissioner flexibility, as well as the registrar. I believe that Mrs Carnell's very sensible amendments will achieve that aim, and I support them on that basis. Mr Acting Speaker, safety is not an end in itself but a means to an end; that end in this case being the availability of licensed premises in which patrons can safely enjoy their leisure time. I believe that Mrs Carnell's amendments effectively address concerns which have been raised by licensees about occupancy loadings, and that this is indeed a sensible measure that she is proposing.

MR MOORE (9.24): Mr Acting Speaker, there are a couple of issues raised here and I think they most neatly fall into two categories: Public safety and public order. On the public safety issue, the Fire Commissioner's advice has been spoken on as far as the Minister is concerned, and that issue of public safety, under Mrs Carnell's amendments, would not change. So, the issue of public safety remains. The issue of public order is dealt with by the - - -

Mr Berry: No; you are wrong, Michael. I am sorry; you are wrong, mate.

MR ACTING SPEAKER: Order!

MR MOORE: I hear Mr Berry interject, and if he is prepared to stand and clarify the position it may well sway my position on this debate, Mr Acting Speaker. But, as I hear the issues, on the issue of public safety, it seems to me that the standards set by the Fire Commissioner can still be set by the Fire Commissioner and he can take into account the amount of door space, the number of exits and those sorts of factors, rather than being restricted simply to occupancy relating to the number of people per square metre.

Obviously, from a fire perspective, if there are more exits, then there should be a difference in the number of people allowed into the place, rather than it being based just on the load limits. There is no doubt that the letter that Mr Connolly tabled from the assisting commissioner of police, the Chief Police Officer for the ACT, Mr Dawson, says, "It is my view that the occupancy loading limits are appropriately set and should remain". Of course, what he has seen is a significant drop from the way they were prior to the legislation that we passed earlier.

That being the case, of course, what we have not tested, or what the assistant commissioner has not tested, is the impact it would have with the amendments presented by Mrs Carnell, which do not take us back to the original situation prior to that legislation last year, I think it was.

Mr Connolly: That was in the context of "Should we change?".

MR MOORE: Granted, it was in the context of "Should we change?". The other thing that the assistant commissioner drew attention to, in terms of public order, of course, was the issue of the extended lines outside the premises, the extra queuing, and the increase in the number of patrons queuing outside the licensed premises. He also added that it seemed that the same number of people were still coming into Civic.

What we have is a situation of a limited number of premises, the same number of people coming into Civic, and a limited number of people in each of the premises who spread themselves out. In due time, no doubt, business being business and with the market operating, there will be more premises open to cater for those people. I think, in terms of public order, there are questions about the impact on people who had gone to Civic specifically, as an example, to go to one of these premises, and who were not able to get in there. This could exacerbate some of the other problems within the Civic area. The assistant commissioner has taken those things into account and still makes his recommendation about public order. I must say that I find persuasive Mrs Carnell's argument that the police will always go for a situation which provides the most order, because that is part of their job. But we have a responsibility to assess that against allowing people to be free to do what they wish to do.

Those are the issues that I am still wrestling with. At this stage, I do not think the Government's arguments have been persuasive enough; but Mr Berry says that he has another point to raise, and I am willing to listen to it.

Debate interrupted.

ADJOURNMENT

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

That the Assembly do now adjourn.

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

Question resolved in the negative.

LIQUOR (AMENDMENT) BILL 1994
Detail Stage

Debate resumed.

MR MOORE: I will just complete what I was saying, Mr Acting Speaker. I am still open to be persuaded, but I must say that the weight of argument at this stage of the debate seems to me to be going with the amendments as presented by the Leader of the Opposition.

MR BERRY (Manager of Government Business) (9.31): Mr Acting Speaker, I am a latecomer to this debate; but I was particularly disturbed, having heard the direction that it seemed to be taking, because it seems that Mrs Carnell wants to provide some discretionary powers in relation to matters which are very clearly related to public safety. In all my experience, where discretion has been exercised in these sorts of places, and where tragedies have occurred, it has usually been because there has been too much discretion exercised and the lines have not been strictly drawn. Many of the members here would have some recollection of those massive tragedies that have occurred in premises where exits have been prejudiced, where the loadings in the buildings were way over and above that which was reasonable, but where the laws in those places, perhaps, were not sufficient to require the owner/occupier of the premises to maintain safe levels within his particular premises.

I heard some discussion from Mrs Carnell about how one might provide safe exits and so on. Again, my recollection of these matters is that the occupancy levels are worked out on the basis of the categorisation of the premises. In this particular case I think it is one person per square metre. Then a formula is applied for the amount of door opening which is required to provide sufficient exit space. Of course, business owners have never been in the habit of providing more than they have to, because it is an economic decision, and, of course, building authorities have always prescribed in the various building codes provisions which provide safe exit for patrons in particular premises. But the relationship with the exit doors is locked into the floor loadings. So, the floor loadings then become critical in the way that the building operates in an emergency. It is most important that there should be no discretion and that anybody that exceeds those floor loadings is in very serious trouble, because it is extremely dangerous.

In my experience, the most danger that can be had in a premises which is affected by fire or any other emergency is to have too many people in it. You cannot have flexible door opening widths which are adjustable to the numbers of people who are in the building. In fact, what happens is that the building design is tied very strictly to the category of the building, as I mentioned earlier, which is in turn tied to the occupancy loading of that particular premises. If you overstep the mark in terms of occupancy you therefore overstress the loadings on the emergency exits. So, you have a really dangerous situation.

In a licensed premise you have all of those things that occur in licensed premises coming together to make a very dangerous cocktail of events which, in the wrong sequence, can result in tragedy. You do not want managers exercising discretion because they think the Fire Commissioner will think it is all right. You do not want the Fire Commissioner put in a position where he has discretion when you have reasonable conditions laid down for these occupancy loadings. You need to have a level playing field throughout the industry, to make sure that everybody knows their particular situation, that everybody knows the safety standards which ought to apply on their particular premises. Nobody gets an advantage over anybody else, commercial or otherwise, and you end up with safer circumstances. I have been handed a letter, which I will table in due course, and I will read from parts of it. It reads:

The Chief Police Officer, Assistant Commissioner Peter Dawson, has advised that the AFP "continues to support occupancy loading levels for licensed premises". Mr Dawson has also stated "The majority of licensees appear to be abiding by the legislation in restricting entry levels to their premises".

That is good news if people are adhering to that, but if there is flexibility introduced into the scheme people will try to get a business edge on each other. The acting general manager of ACT Emergency Management, Mr Jim Dance, is a person I have the highest regard for. I have known him for many years and I know him to be a committed and professional fire officer who is concerned about matters of public safety. He says, "... that the current method used by the Fire Commissioner to determine occupancy loading for licensed premises be maintained". So, in his professional view those very strict standards ought to be adhered to without discretion.

I say to you, members, that I think that, whilst people might have the best intentions, this is a very serious matter and if there is going to be any error in our consideration of this matter you must, as I often was told as a young firefighter, err on the side of safety. The error the other way is one which you could be held culpable for, and in this case it is very clear to me that there ought to be no discretion; it ought to be very clear to everybody; and fire officers and police officers ought to have the very clearest provisions laid out for them, to ensure that there is no possible breach of safety when it comes to these occupancy loadings. They are critical. I seek leave to table a letter from the Attorney-General's Department.

Leave granted.

MR STEVENSON (9.39): Mr Connolly earlier said that he believed that the Government may not win on this particular point, or whatever words he used. I am not sure why he said that, because I certainly had not made up my mind on it. I was concerned about both sides. I had already seen Mr Connolly this evening over there and said, "Look, just explain the point". But I do not find the point fully explained yet. I think it has been a little bit clouded. As I see it, the amendment simply gives a power to the Fire Commissioner. He can decide, if there is adequate opportunity for patrons to exit a building through fire exits, more doors or whatever, to allow an increased number of people in that building. To me, that would make sense.

I think Mr Moore picked up the point quite well when he said that there are two different issues: One is fire safety and one is public order. If we are looking at a law on fire safety we should look at the law on fire safety and make a fair law to do with that. If there is another situation of public order, then by all means let us look at that, but in the context of public order - not using one law to effect another. Mr Berry said that there should be no discretion, but who better to determine fire matters than someone thoroughly trained in that area? I think the suggestion is that the Fire Commissioner or his appointed representative may not do his job correctly.

Mr Berry: He does not even want the discretion, Dennis.

Mr Connolly: And his decision will be appealed against, so the ultimate decision maker will be the AAT. A bunch of lawyers can change the Fire Commissioner's decision.

MR STEVENSON: We already agreed that the decision should be able to be appealed against.

Mr Connolly: But this discretion will be exercised in many cases by the tribunal, not the commissioner.

MR STEVENSON: The discretion will not be. That will simply be an opportunity for someone to go along and say, "Look, I do not think this is fair". That point has not been really taken up well. If we are looking at a fire matter, let us look at the fire matter. If we are looking at public order - it is a different point - let us look at that.

Mr Berry: It is the occupancy of the building, too.

MR STEVENSON: Yes, indeed, but the occupancy - - -

Mr Berry: Public health - everything.

MR STEVENSON: It is a different situation, though. What the amendment is talking about is fire safety; so, let us address that point. If there are some other concerns with the Bill, let us address them separately.

MR STEFANIAK (9.42): I note that my colleague Mrs Carnell will readdress issues in relation to public safety and some of the points made by Mr Berry. I just want to comment on a number of remarks made by Mr Connolly.

Mr Berry: Pubcard will not fix it, Bill.

MR STEFANIAK: Pubcard might help, though, Wayne, and so might a few other things. Funnily enough, quite often I do not necessarily agree with a lot of what Mr Stevenson says. But he is probably quite right here. There are two separate issues, and it is interesting that the Attorney-General has now raised the issue of public safety in terms of police. It is interesting, too, in relation to the document that he has tendered to you, Mr Acting Speaker. In paragraph 3 of that document he talks about the increase in the number of patrons queuing outside licensed premises, and that is mentioned by Mr Dawson, the assistant commissioner. He goes on to say:

Employees of premises attempt to manage the queues, but there are still incidents of drunken and hooligan behaviour by some patrons waiting to get into the premises.

Mr Dawson then goes on to say:

Incidents of drunkenness and hooliganism, however, were a problem within the Civic area prior to the introduction of the legislation, and therefore cannot, with any certainty, be directly attributable to the legislation.

Obviously, Mr Connolly, it would be a lot easier if you restricted the number of people in these premises to 10. With the way you have been cutting the police budget over the years, that is probably something the police could handle quite easily. The way you have been cutting their powers, too, that is something they could quite easily handle, because it might be more of a fair fight there now.

However, the issue of public safety is completely different from this particular issue. Certainly, it is easier for police to handle smaller numbers of people, but there are other ways of doing that. To accuse this Opposition of going against something the police - - -

Mr Connolly: That is what you are doing, Bill.

MR STEFANIAK: We might be, but there are other ways of doing it. This Opposition - and when it was the Government beforehand in the First Assembly and the Opposition before that - have consistently backed and pushed any sensible measures to enable the Australian Federal Police in the ACT to do their job properly, because basically we are quite different from you in that we actually trust them to use their discretion properly, which is something you people have had huge problems doing - trusting the police actually to get on and do their job. So, when you talk about "Bah, humbug!" on this issue, when you bring in the question of police and police control in these premises, it is just that: Absolute humbug coming from a government that has absolutely no credibility in that particular area.

MS SZUTY (9.45): I will be brief in rising a second time to talk to Mrs Carnell's amendments. I have before me a copy of advice from Assistant Commissioner Peter Dawson of the Australian Federal Police, and I notice that the brief on occupancy loading levels is:

The impact of recent amendments to the Liquor Act 1975, concerning occupancy loading levels, on police services.

I think that is interesting and relevant to the debate we are having on these amendments today. I think my colleague Mr Moore expressed the situation very cleverly, in that we are talking about two issues here - one of public order and one of public safety. I think there is no question that Assistant Commissioner Peter Dawson has approached this particular issue from the point of view of occupancy loading levels as they relate to police services.

I also acknowledge Mrs Carnell's comments that the Fire Commissioner, Mr Dance, felt comfortable with the amendments that Mrs Carnell is proposing. As I said earlier, I believe that they are sensible measures. I do not think the earth will change dramatically as a result of this measure. I think they are very sensible measures that Mrs Carnell is proposing and I think it is appropriate that the Assembly support them.

MR MOORE (9.46): I would just like to take the opportunity to make one further comment, following the contribution made by Mr Berry. I think what was not clarified in my mind was the notion that we can have a simple set floor loading; so, if we take 1,000 square metres of this area around us we can say, "We have one door over there and we have one door leading in. We should have so many people there, from a fire safety perspective. If we have these other four doors there, surely from a fire perspective you will be able to have more people. From a safety perspective, surely you should be able to have more people in this building". To me, that seems self-evident. I see Mr Berry shaking his head, but he did not provide anything there that would suggest to me that that was not the case. I still have not heard it. Unless I do hear something, I will be supporting the amendments.

MR CONNOLLY (Attorney-General and Minister for Health) (9.47): There is a faint hint there, "Unless I hear something, I will be supporting the amendments". Perhaps minds have not been made up. It is regrettable that, on an issue of this importance, the voluminous briefings and our track record - our proven record of bringing officials in, bringing them to your offices, taking you to their offices, ensuring that Independents can get whatever information they want - were not taken up, because we would have been more than happy to let you talk to police commissioners, fire commissioners, liquor licensing people, and to hear all the advice that we have acted on to say, "No change".

Basically, the way the regime works is that the Building Code establishes a maximum at essentially one person per square metre. It varies if it is a bar or whatever. That is the maximum. If it is 500 square metres, that is 500 people maximum. If it is up a pokey, rickety set of stairs, the Fire Commissioner may well say, "Well, the maximum is that, but I will set a lower number". What you are really asking for here is, "The maximum is that, and we will let you go more. We will let you actually squeeze in a few more above the maximum". That is why we say, on the advice we have taken from police and fire officers, "Do not do it". That is our advice. That is what we say to the Assembly.

MR BERRY (Manager of Government Business) (9.48): Much has been made of the Fire Commissioner being comfortable about these matters. Very clearly, in the letter that I tabled, he is not as comfortable as Mrs Carnell suggests, because he says "... that the current method used by the Fire Commissioner to determine occupancy loading for licensed premises be maintained". There is a clear - - -

Mrs Carnell: Does he say that he is not comfortable with the new one?

MR BERRY: I am telling you that he is certainly making it clear in correspondence which has found its way to the Attorney-General. Mr Moore raised the issue of the number of doors. It is not only the number of doors; there are other issues which are taken into account as well. I am not going to try to remember - - -

Mr Moore: First floor, second level.

MR BERRY: There are issues of dead-end travel, the limitations on distance which one might have to travel before having a choice of exit; so, it is not merely a question of widening a door or putting another door beside it. There are other issues as well.

Of course, the whole design of a particular premises is based on that original floor loading, which goes to the category of building which we are talking about, that is, a licensed premises. I do not know what class they are these days, but it is a particular class of building. They have a floor loading, and the floor loading to exit ratio is worked out on the basis of that floor loading. I again suggest that you exercise some caution on this issue. I think the summaries of the issues that I have heard are too simplistic. I think I have heard Mr Stevenson try to separate the two issues. One is public order and one is public safety.

Certainly, prima facie anyway, if the public safety issues generated some circumstances which made it easier to manage public order, there is nothing wrong with that. But I am not so concerned about the public order issue; I am more concerned about this issue of fire safety and the need to make sure that you have easily understandable provisions which are the same in all premises of a similar category, because if you do not, in my view, and if it is not to a standard which has wide acceptance not only in the ACT but across Australia, you are tinkering with an area which could be very hazardous to the people who use those premises. There is a discretion that might not, as Mr Connolly has put it, be exercised by the Fire Commissioner himself; it might be on the basis of some appeal to the AAT where a different outcome was resolved in the light of legal proceedings. Again, I urge members to be cautious about this. I think there has been far too simplistic an approach taken on the matter and, again, I urge you - if you think there is an error to be made - to err on the side of public safety, to err on the side of fire safety.

MRS CARNELL (Leader of the Opposition) (9.52): Mr Acting Speaker, I think the thing that possibly Mr Berry is not quite understanding here is that there is nothing in what is being proposed that actually goes outside standards. Let me make it very simple. If, say, under the Building Code Part D1.13, which is the occupancy loading per square metre, we have a premises of 100 square metres, that means currently it will have 100 people, whether that premises be at ground level or at first floor level. Currently, a premises of 100 square metres is allowed 100 people per 100 square metres. It could have an exit capacity of 150 under the Building Code Part D1.6. That means that it is still under the Building Code. You have the same sized premises. One has an occupancy loading of 100 on the basis of square metres, but possibly 150 in terms of exit capacity because it happens to be at ground level. It happens to be open to the footpath right across the front, so it has a very large exit capacity. Currently, the occupancy loading will be 100 because it will be the lower of the two, regardless of how quickly the people can actually get out. That is exactly the situation at the moment.

If the same sized premises is on the first floor, still under occupancy loading, under D1.13, 100 people per 100 square metres, but the only way out of this premises is by a narrow staircase, the signage is not as good as it could be, there could be a quite large distance to get to the stairs - all of those sorts of things - we find that the exit capacity is 80. Currently that means that the occupancy loading will be 80. So, on one side you have a situation of going to the lowest; but, on the other side, which is very appropriate because only 80 people can get out of that premises - a very appropriate occupancy loading - it is still only the lowest. We get only 80 on the first floor; but on the ground floor, where 150 can get out, we have still only 100 because there is no flexibility. All this amendment does is give the Fire Commissioner a capacity to have flexibility when it is thought appropriate under the Building Code. It is not stepping outside the Building Code.

Mr Berry made comments that all over Australia this happens, and what would happen if we stepped outside that and all that sort of stuff. The fact is that everywhere in Australia - in New South Wales, in Tasmania, in South Australia, in Victoria and so on - what is actually taken into account is exit capacity, as well as things like standing areas for bars, which can have a lower capacity such as 0.75 and so on. None of those things we have touched on in these amendments. We have not attempted actually to bring down the number of people per square metre. All we have attempted to do is provide flexibility, and I think that is just commonsense.

Question put:

That the amendments (Mrs Carnell's) be agreed to.

The Assembly voted -

AYES, 7 NOES, 6

Mrs Carnell	Mr Berry
Mr Cornwell	Mr Connolly
Mr Humphries	Ms Ellis
Mr Moore	Ms Follett
Mr Stefaniak	Mrs Grassby
Mr Stevenson	Mr Wood
Ms Szuty	

Question so resolved in the affirmative.

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

Bill, as amended, agreed to.

ADJOURNMENT

Motion (by Mr Berry) agreed to:

That the Assembly do now adjourn.

Assembly adjourned at 9.59 pm

ANSWERS TO QUESTIONS

ATTORNEY-GENERAL

ACT LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1327

Police Force - Staff Reductions

MR HUMPHRIES: To ask the Attorney-General -

(1) Can the Attorney-General confirm that 165 Actual Staffing Levels positions are to be cut from the Australian Federal Police in the 1994-95 financial year, as a result of the recent Federal budget; if so, how many positions will be lost in the ACT.

(2) If any positions are lost in the ACT, (a) how many positions will be lost in respect of the ACT policing function and (b) from what areas will those positions be drawn.

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

(1) I am not aware of how the Federal Budget might affect the national Australian Federal Police; it is simply not a matter for the ACT Government.

(2) In accordance with the Commonwealth/ACT Policing Arrangement, an average of 689 personnel are deployed under the command of the Chief Police Officer to provide police services to the ACT.

I am advised that the Australian Federal Police has no intention of seeking a downward revision of the number in the current financial year and neither does the Government.

2855

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1328

Floriade - Concession Sites

Mrs Carnell - asked the Minister for the Environment, Land and Planning - In relation to Floriade concession sites -
(1) How many sites are there.
(2) What days do they operate.
(3) Are all concession sites charged the same rates.
(4) How are those rates determined.
(5) Do concession sites all have set hours of operation; if so, what are they.
(6) How were these hours determined.
(7) Has any study been carried out to determine the site and service provision requirement needed to meet the public demand; if so (a) what, (b) when and (c) by whom.

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

(1) There are 15 concession sites at Advance Bank Floriade 1994, including the Outdoor Cafe and displays by ACT Government Recycling, the National Capital Planning Authority and the National Capital Attractions Association. Of these 6 are food sites, 2 are ice-cream sites, 4 are non-food sites and include film processing and a book shop and 3 are promotional sites.
(2) Days of operation depend on whether the site is allocated as a weekend only or a 30 day site. Thirty day sites comprise the Outdoor Cafe, one food site in the Village Square, 2 ice-cream sites, 3 non-food sites and the 3 promotional sites. The weekend only sites comprise 4 food sites and 1 novelty site.

2856

(3) Excluding the Outdoor Cafe, which operates under a separate arrangement, three different site fees are charged - $4,200 for a 30 day site which does not include any hire equipment, $3,200 for a large weekend site and $1,800 for a small weekend site, both of which include hire equipment in the form of a floored marquee or fete stall.

(4) Site fees are determined by comparing rates of other major outdoor events in Canberra, by experience in previous years of volume of business and by taking into consideration the requirement for a reasonable commercial return to the concession holder and the Floriade Board.

(5) Concession holders must be open to the public between the hours of gam and 5pm, the official Floriade opening hours. Unless alcohol is being sold from the site, concession holders at their own discretion may operate for extended hours.

(6) Concession hours of operation are set according to the official Floriade hours of operation, determined by past experience in visitation patterns as indicated in professionally conducted surveys and observation by management on site.

(7) Professional surveys on visitor numbers and perceptions have been carried out each year since 1989. A number of these have addressed the level of satisfaction of various services provided including food and beverage outlets, parking, etc.

The most recent of these was conducted in 1992 by Barbara Davis and Associates. A majority of people rated the signage, food and refreshments, seating and parking as good.

2857

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No. 1342

City Hill - Flying of Flags

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

1) Why was an Aboriginal flag flown on City Hill during National Aboriginal and Islander Day of Observance Week and who authorised its flying.

2) Is it intended to fly flags of nations on national days, eg St Patricks Day and if not, why was permission given for (1).

3) What rules govern the flying of flags on City Hill.

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

1) The Aboriginal flag was flown on City Hill during National Aboriginal and Islander Day Observance Committee (NAIDOC) Week (3-10 July) in recognition by both the ACT and Commonwealth Governments of the special significance to Australia of NAIDOC Week and the Aboriginal and Torres Strait Islander cultures.

I authorised the flying of the Aboriginal flag.

The ACT Government has jurisdiction over the flagpole on City Hill. City Hill is Territory land, albeit designated land, and so the option to use the flagpole has been a Territory one since self government. This option was officially adopted from Canberra Day 1994.

2) No it is not intended to make a practice of flying flags of other nations on national days. The Aboriginal flag was flown on City Hill during National Aboriginal and Islander Day Observance Committee (NAIDOC) Week (3-10 July) in recognition by both the ACT and Commonwealth Governments of the special significance to Australia of NAIDOC Week and the Aboriginal and Torres Strait Islander cultures.

3) The flying of flags on City Hill is now a matter decided by the Chief Minister. The Chief Ministers Department (in consultation with the Awards and National Symbols Branch of the Department of Administrative Services) is currently preparing protocol guidelines for the flying of flags on City Hill.

2858

MINISTER FOR EDUCATION AND TRAINING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1347

Cook and Lyons Primary Schools

MR CORNWELL - asked the Mnister for Education and Training on notice on 23 August 1994 In relation to Cook and Lyons Primary Schools

(1) How many children are there in each year in (a) Cook Primary School and (b) Lyons Primary School.

(2) Do the schools combine years; and if so, what years are combined in (a) Cook Primary School and (b) Lyons Primary School.

(3) What is the (a) pupil-teacher and (b) pupil-class teacher ratios at (i) Cook Primary School and (ii) Lyons Primary School.

MR WOOD - the answer to Mr Cornwells question is:

(1)(a)(b)The number of students in each year at Cook and Lyons Primary Schools are:

SCHOOL	K	1	2	3	4	5	6	TOTAL
COOK	22	21	25	11	18	19	10	126
LYONS	16	17	25	14	20	14	13	119

(2)(a)(b)Cook and Lyons Primary Schools combine classes as follows:

SCHOOL	K	1/2	2/3	3/4	5/6
COOK	22	24	25	26	29
LYONS	16	26	25	25	27

(3)(a)(i) The pupil-teacher ratio at Cook Primary School, including the Principal, ESL and Learning Advancement teachers, is 17:1

(3)(a)(ii) The pupil-teacher ratio at Lyons Primary School, including the Principal, ESL and Learning Advancement teachers, is 16:1
(3)(b)(i) The pupil-class teacher ratio at Cook Primary School is 25:1
(3)(b)(ii) The pupil-class teacher ratio at Lyons Primary School is 24:1

2859

TREASURER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1350

Rates Payments

MRS CARNELL: Asked the Treasurer upon notice on 23 August 1994 - In relation to payment of general rates -

(1) What proportion of ratepayers pay their rates in the following manner (a) in a lump sum; or (b) in quarterly payments?

(2) What proportion of ratepayers are overdue with their rate payments?

(3) What is the quantum of (a) overdue payments and (b) additional interest charged?

(4) What is the level, in relative and absolute terms, of bad debts arising from general rates?

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

(1) & (2) In respect of the 1994/95 general rates assessments , 44.4% of ratepayers paid in full and 52% of ratepayers opted to pay their assessments by quarterly instalments. The remaining 3.6% of ratepayers (3,811) were overdue with payment as at the first instalment due date of 15 August 1994.

(3)(a) The total unpaid general rates as at 31 August 1994 was $3,446,700. This includes $3,041,400 of 1994/95 general rates liability which became payable in full because ratepayers did not pay their first instalment by the due date of 15 August 1994.

(b) Interest charged on the unpaid rates as at 31 August 1994 was $173,828. Interest accrues on a monthly basis until accounts are paid in full.

(4) Rates debts are attached to the land and are rarely "bad" in the sense of being written-off as irrecoverable. In 1993/94 an amount of $6,781.50 for general rates for various years was written-off. It is estimated that the level of bad debts from general rates for each rating year is approximately 0.01 %.

2860

MINISTER FOR URBAN SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1358

Civic Library - Republic Display

Mr Cornwell - asked the Minister for Urban Services - In relation to the recent display on the Republic at the Civic Library which featured books on the subject and a separate table of T shirts, pamphlets etc -

(1) Who authorised these displays.

(2) What was the purpose of each display.

(3) Was the T shirt and pamphlet table manned and, if so, by whom.

(4) Were T shirts, books etc being sold and, if so, who benefited from the proceeds raised.

(5) Will the same opportunity be given to the Constitutional Monarchists to put their point of view at the Civic Library; if so, (a) when and (b) if not, why not.

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

(1) The displays were authorised by the General Manager, ACT Library Service.

(2) The display was not put up by the ACT Library Service. The only involvement the ACT Library Service had with the display was to provide space for it, as it would do for any other community group.

(3) The display was a static one mounted on a notice board, with some brochures left in a box. It was not attended.

(4) No sale of items related to the display took place.

(5) In November 1993, the Australian Republican Movement and the Australians for a Constitutional Monarchy were approached to participate in a joint display on the Republic issue. Some months later the Australian Republican Movement made a request for permission to set up their own display on the Republic issue. To date the Australians for a Constitutional Monarchy have not responded to the invitation for a display.

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The ACT Library Service routinely makes display space available to community groups to publicise their activities or to air their views on matters of public interest. This is on the basis of a proviso that the ACT Library Service is in no way connected with the views expressed -a notice to this effect is displayed in the exhibition areas.

2862

CHIEF MINISTER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No. 1363

CeBIT95

MRS CARNELL - Asked the Chief Minister upon notice on 23 August 1994:

In relation to CeBIT95

(1) How much money and other resources has the Government committed in support of activities at CeBIT95 in Hannover,

(2) What is the breakdown of expenditure, including any staff and associated costs involved in a presence of Government staff at CeBIT95.

(3) Are there any other Australian, local, State and Commonwealth personnel to attend CeBIT95 other than Austrade personnel.

(4) What was the basis of selection of the Government staff member to attend CeBIT95.

(5) What is the name of the person and what position does he/she occupy.

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

(1) Funding of $91,500 was provided in the 1994/95 Budget to support the ACTs participation at CeBIT95 in Hannover Germany. If required, the budget allocation will be supplemented by other program money allocated to the promotion of Canberra as the Communications and Computing Capital.

CeBIT is the worlds leading Information Technology Trade Fair, attracting over 600,000 visitors annually.

(2) The breakdown of the ACTs budget for CeBIT95 is:

$30,000 To Austrade, for the ACTs share of contribution to the promotion of Australias role as Partner Country at CeBIT95.
$52,500 Contribution to Canberra companies for market research and promotional activities associated with CeBIT95.
$ 9,000 Economic Development Division for promotion of the ACT and Divisional representation at CeBIT95.

2863

(3) There will be 100 Australian companies and Commonwealth Government Departments exhibiting at CeBIT95. Nine of the companies are from the ACT and the 7 Commonwealth Government Departments attending are headquartered in the ACT.
The ACT, along with the other States will have exhibitions on the Australian Stands promoting business and investment opportunities. These stands will be staffed for the duration of the Fair.
Each of the States has been asked to conduct two seminars or presentations as part of a series of Investment Promotion Forums.

(4 & 5) Senior representation from Economic Development Division will attend CeBIT95. Their role will be to assist ACT companies exhibiting at CeBIT, promote the ACT as a business and investment destination, to staff the ACT stand and be involved in seminar presentations to the advanced technology sector.
The representation has yet to be determined, but would involve skills in marketing and promoting the ACT, working with the private sector and knowledge of ACT industry and government.
I will keep you informed as the program develops.

2864

TREASURER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

Question No. 1364

Budget Supplementation

MS CARNELL - Asked the Treasurer upon notice on 24 August 1994- In relation to the Treasurers advice to members of the Assembly concerning Budget Supplementation for the 1993-94 financial year

1) Can the Treasurer explain why a liability has arisen for at least $580,000 which relates in part to a settlement of a contractual dispute over a sewer.

2) Why has a liability arisen for taxation payments in relation to past joint ventures.

3) Does this liability relate to (a) tax avoidance arrangements (b) failed joint venture partners and (c) to what type, or types of tax does the liability relate and (d) how much of the liability is (i) primary tax and (ii) penalties, costs or the like.

4) Are there other potential liabilities for tax either for the Government or on behalf of failed joint venture partners, which are yet to be finalised. If so, (a) what are the details of the liabilities; (b) why have they arisen; or (c) how much is in dispute, or required to settle the claims; (d) does this relate to (i) tax avoidance arrangements or (ii) failed joint venture partners; and (e) to what type, or types of tax does the liability relate.

5) How much of the liability is (a) primary tax and (b) penalties, costs or the like.

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

1) The call on the Treasurers Advance of $0.528m represented claims which could not be fully met from within the Land Program budget. This supplementation allowed for the negotiated settlement of a contractual dispute over a sewer associated with the provision of infrastructure in Kambah and, the payment of a taxation liability.
The private sector developer, as part of a deed of Agreement, was required to undertake sewer system works during the course of which the standards for sewer augmentation changed. As a result of the increase in costs incurred by the developer, the company instigated legal action to recover its costs. Legal advice received was to the effect that the Territory would most likely be found liable for the additional cost. Subsequently an out of court settlement of $0.235m was agreed and paid.

(2) The taxation liability arose from the Governments participation in four joint ventures established for land development purposes and which were based on a unit trust operating structure. The joint ventures were established with the Master Builders Association (MBA) and the Housing Industry Association of the ACT (HIA) to ensure an adequate supply of affordable land was available for first hone buyers following the introduction of private sector land development.

The initial two joint venture trusts, Calwell Park Unit Trust and Calwell Stage II Land Development Unit Trust, were established by the Commonwealth Government the HIA and MBA in 1989. The Commonwealths beneficial interest in the trusts transferred to the ACT on self-government. Two additional trusts, the Gordon 7 Unit Trust and the Banks Unit Trust, were established by the ACT Government, the MBA and HIA respectively in 1990 and 1991 respectively.

Unit trusts are generally not subject to tax, provided the income of a trust is fully distributed each year to the unit holders.. Unit holders are individually subject to tax on their share of taxable income. The ACT Government and the HIA are tax exempt bodies so that it was anticipated that no tax would be payable on their respective shares of trust income.

The initial trusts were established by the Commonwealth and the other parties in ignorance of the operation of Division 6C of the Income Tax Assessment Act. Division 6C specifies that where more than 20% of units are held by tax exempt bodies tax is payable by the trust as if it were a company. Tax exempt unit holders held more than 20% of units in all four trusts. The ACT replicated the trust infrastructure for the second two trusts.

(3) In November 1992 the ACT Government became aware of the implications of Division 6C and a voluntary disclosure was made immediately to the Commissioner for Taxation. In April 1994 the Australian Tax Office issued Statutory Demands for payment on each joint venture company as each trustee or the unit trust totalling $3.458m. This amount comprised $3.350m as taxation due and $0.107m as a late payment penalty. In June 1994 a full and final settlement was negotiated with the Tax Office for $0.95m. This liability for taxation does not arise from tax avoidance or the failure of joint venture partners.

An amount of $0.560m was available from the assets of the joint ventures. Additional contributions of $0.130m each towards the settlement are to be made by HIA Services (ACT) Pty Ltd and MBA Land Holdings Pty Ltd by way of reduced profit shares from the next joint ventures to be conducted in association with the Housing Industry Association of the ACT and the Master Builders Association of the ACT, respectively. The Government contribution is also $0.130m and it has agreed to expend an amount of approximately $0.213m to finalise minor uncompleted works on behalf of the trusts. The Governments total contribution towards the tax settlement is therefore approximately $0.343m. The Territory has received $3.379m from the trusts by way of profit share.

(4) There are no further potential tax liabilities for the Government in respect of joint venture arrangements. Subsequent joint ventures have been established on the basis of partnership agreements so that the Territorys tax exempt status is protected

(5) Not applicable. Refer to the answer to (4).

2866

TREASURER FOR THE AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO. 1368

Dual Occupancies - Banks

MR CORNWELL: To ask the Treasurer- In relation to the 58 dual occupancy developments approved or active in the suburb of Banks -

(1) What is the estimated rates revenue that will be obtained from these dual occupancy developments?

(2) What would have been the estimated rates revenue that would have been obtained from the blocks if only single dwellings had been built?

(3) Was betterment charged upon these dual occupancy developments; and if so, how much in total was raised?

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

(1) The total general rates assessed in 1994/95 for the 58 dual occupancy sites in Banks (31 of which have been converted to unit title) is $29,254.50.

(2) There is no variation in the unimproved values of these properties as a result of dual occupancy approval or conversion to unit title and therefore the general rates revenue is unchanged.

(3) No betterment tax is payable on these developments, however a fee of $1,000 applies to unit title conversions.

2867

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1372

Campbell Oval - Damage

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

(1) Is it a fact that the oval off Vasey Crescent has been used as a vehicle access to an adjacent building site.

(2) Has the oval been damaged as a result and, if so, what is the estimated cost of repairs.

(3) Who is responsible for the cost of these repairs.

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

(1) There has been some parking on the oval surrounds while the builder constructed the Aged Persons Units. There has also been considerable disturbance to the area near the units as the builder connected to services and removed a disused toilet block on behalf of the Government.

(2) Minor damage to a small part of the oval occurred as one of the services had to be connected to an existing service line on the oval. Estimated cost is $200 for the oval surface repairs and $1500 for the disturbed area near the units.

(3) The builder is responsible for the repair of all disturbed areas. City Parks staff have spoken to the builder on a number of occasions and he is aware of his responsibilities.

The builder has arranged for regrassing to take place in the next two weeks as the building is now complete and it is an appropriate time to sow grass seed.

2868

MINISTER FOR HEALTH
LEGISLATIVE ASSEMBLY QUESTION
QUESTION NO. 1376

Woden Valley Hospital - Cafeteria

Mr Cornwell asked the Minister for Health:

In relation to my question in the Assembly of 19 May 1994 about the restricted hours available to the public wishing to use the cafeteria at Woden Valley Hospital and your advice to me to "Watch that space"-

(1) Has the dispute between your Government and the relevant union been resolved and, if not, why not?

(?) How long has the cafeteria been offering only restricted hours to the public?

(3) How much longer must I "Watch that space" before a full and convenient service is provided to the public?

Mr Connolly - the answer to the Members question is:

(1) The negotiations between the Government and the Health Services Union of Australia have been finalised and agreement reached between the parties.

(?) The cafeteria has been offering restricted hours to the public since December 1993.

(3) I anticipate that the new coffee shop facility will be available to the public at Woden Valley Hospital by about Christmas 1994, given that the operator of the service has yet to design, fit-out and staff the facility.

2869

MINISTER FOR THE ENVIRONMENT, LAND AND PLANNING

LEGISLATIVE ASSEMBLY QUESTION

QUESTION NO 1377

Tree Removal - Deakin

Mr Cornwell - asked the Minister for the Environment, Land and Planning
In relation to the removal of native trees from either side of the Kent Street ramp at Deakin

(1) Why were the trees removed?

(2) Is it intended to replace the trees with other cover and if so, what cover; if not, why not?

Mr Wood - the answer to the Members question is as follows:
(1) The native shrubs were removed as they were moribund and unlikely to recover.
Twelve native trees and approximately 1100 native shrubs have been planted. These will quickly provide an attractive landscape.

2870

MINISTER FOR HOUSING AND COMMUNITY SERVICES
LEGISLATIVE ASSEMBLY QUESTION

QUESTION NUMBER 1383

Rental Bonds - Interest

MR CORNWELL - Asked the Minister for Housing and Community Services, in relation to the Office of Rental Bonds:

1. How much interest was earned in 1993-94.

2. How much interest was allocated to various activities by name and amount from this 1993-94 profit.

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

1. $627,796.

2. Office of Rental Bonds operating costs: $625,880; Tenants Advice Service: $128,230.

The allocation also drew upon interest income from the previous year. Full details on the interest earned on bonds lodged with the Office of Rental Bonds are provided in the Annual Management Report.

2871